January 9, 2006
January 19, 2006
January 23, 2006
February 6, 2006
February 13, 2006
March 6, 2006
March 13, 2006
April 10, 2006
April 17, 2006
May 1, 2006
May 8, 2006
June 5, 2006
June 12, 2006
July 10, 2006
July 17, 2006
August 7, 2006
August 14, 2006
September 11, 2006
September 18, 2006
October 2, 2006
October 9, 2006
October 16, 2006
November 6, 2006
November 13, 2006
December 4, 2006
December 11, 2006
Commission Members Present  
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Doug Cooper, Richard Pavelek, Andy Brunelle, Doug Russell, Amber Van Ocker, Lauren McLean & Anthony Shallat.

Staff Members Present  
Angela Wood, Carl Miller, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Deferrals

CAR005-00048 & CUP05-00127/Bart Griffin 
SUB05-00107/Sebastian Plaza Subdivision 
SUB05-108/Sebastian Villa Subdivision

COMMISSIONER COOPER MOVED TO DEFER TO JANUARY 23, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00111/Westmark Credit Union

COMMISSIONER VAN OCKER MOVED TO DEFER TO FEBRUARY 6, 2006. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP05-00054/Harris Family Limited Partnership 
Location: 3200 Warm Springs Ave. 
RECONSIDERATION FOR APPROVAL OF MODIFICATIONS TO THE CONDITIONS OF APPROVAL FOR CUP-17-97 ^ CUP02-00055, CONDITIONS #6, #11 AND #15 RELATED TO THE REQUIREMENTS OF THE HARRIS RANCH MASTER PLAN.

CUP05-00151/Boise City Parks & Recreation 
Location: 600 W. Garrison St.
CONSTRUCT A 50X112 FT. COVER FOR THE EXISTING BATTING CAGES IN AN A-1 ZONE.

CUP04-00087/Mod. #3/The Hosac Company, Inc.
Location: 412 S. 13th St.
MODIFICATION TO CONSTRUCT A 5-STORY, 35 UNIT RESIDENTIAL BUILDING IN AN R-ODD ZONE WITH A REQUEST FOR A HEIGHT EXCEPTION AND PARKING REDUCTION. THE SITE HAD PREVIOUSLY BEEN APPROVED FOR A 4-STORY BUILDING.

SUB05-00056/Steelwood Station Subdivision
Location: On the north side of Fairview between Shamrock and Wildwood. 20-LOT COMMERCIAL SUBDIVISION.

SUB05-00101/Aeries Commons Condominium Subdivision
Location: On the east side of Gekeler south of Iowa St. 6-LOT, 14 UNIT TOWNHOUSE SUBDIVISION.

SUB05-00080/Equity Condominium Subdivision
Location: On the south side of W. Ardene St. east of Maple Grove Rd. 4-UNIT, PRELIMINARY/FINAL PLAT FOR A COMMERCIAL CONDOMINIUM SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED FOR APPROVAL BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Wilson – I would like to make a note about SUB05-56 and to provide some direction to staff regarding the subdivision. Specifically I would for staff to notify Council that staff has the same concerns about the location of the traffic light that ACHD Staff expressed. ACHD’s staff cited concerns that the signal is not located on a collector street nor is a nearby collector street available and that there is no existing roadway to the south of Fairview that would be served by such a signal. I would like for unanimous consent along with the agenda that this be brought to the City Council’s attention.

MOTION TO APPROVE CARRIED UNANIMOUSLY WITH COMMISSIONER COOPER ABSTAININED FROM CUP05-54 DUE TO A CONFLICT OF INTEREST.

Regular Agenda
CAR05-00052/Hale Development
Location: 909 W. Iowa St.
REZONE .39 ACRES FROM R-1C TO R-1M.

Presentation of staff report was waived.

COMMISSIONER ELLSWORTH MOVED FOR APPROVAL OF THE REZONE BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS STATED IN THE STAFF REPORT. COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Ellsworth – For the record this is kind of a first one for the City in that we’ve added a design review element to this particular rezone so it will come before another committee and I think that will help satisfy some of the questions that were raised by the Southeast Association.

MOTION CARRIED WITH COMMISSIONER COOPER ABSTAINING DUE TO A CONFLICT OF INTEREST.

SUB05-00109/Pineview Plaza Subdivision
Location: On the north side of Fairview Ave.
5-LOT COMMERCIAL SUBDIVISION.

Staff report was waived.

Greg Anderson (Applicant/1204 6th St. North/Nampa, ID./83687) – Does not agree with condition #1 requiring a 4 ft. wide sidewalk and pedestrian access easement on one of the sides of the proposed private street. The improvements on the preliminary plat currently exist. Requiring pedestrian sidewalk to the back lots would cause a hardship.

Scott Spjute – Staff is asking for a pedestrian path along one or other sides of the driveway.

COMMISSIONER VAN OCKER MOVED TO RECOMMEND APPROVAL OF THE SUBDIVISION WITH A MODIFY TO CONDITION #1 TO READ: THE APPLICANT SHALL PROVIDE A 4 FT. WIDE STRIPPED PEDESTRIAN ACCESS ALONG ONE SIDE OF THE PRIVATE STREET.

COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00126/Mountain View Power, Inc.
Location: 9605 S. Eisenman Road
CONSTRUCT TWO NATURAL GAS POWER PLANTS IN TWO PHASES IN AN M-2D ZONE.
Lauren McLean – Will be abstaining from this item.

Carl Miller – The request before you is for two natural gas power plans at 9605 S. Eisenman Rd. in an M-2D zone. It was originally scheduled for November 14th. At that time the Planning & Zoning Commission deferred this application to tonight in order to provide more time for agency comments. Since that time staff has received comments from public agencies, specifically on January 4th the Idaho Department of Environmental Quality submitted comments regarding Mountain View Power’s Gateway Power Plant Air Quality Modeling Analysis. Some points from that analysis and those comments were that the Mountain View Power Plant would reduce its noxious pollution by 50% as compared to emissions from the Bennett Mountain facility currently owned and operated by Idaho Power which is located in Mountain Home. A condition of approval limits the continuous emissions related to plant #1 to 10 parts per million nitrogen oxides and 10 parts per million carbon monoxide. Plant #2 will also use best available pollution control technology which is existing. Per the DEQ report it indicated that impacts level of COPM10 and SO2 are sufficiently low even in non-attainment areas which the Treasure Valley is not. The site is approximately a mile northwest of the Isaac’s Canyon Interchange. This location is also approximately 2 miles from the Boise Airport and it is within the Boise Airport Influence Area ‘A.’ The subject property is near a large bluff which is to the south of the site. A windrows map indicates prevailing air currents mostly from the northwest and the southeast which is in relation to the greater Ada County area. Plan 1 is for a gas powered power plant that will generate between 80 and 250 megawatts. This is a peaking plant for summer and winter use and on during peaking days it will peak from 8 to 10 hours a day. Plan 2 is a gas fired power plant that will generate 50 to 100 megawatts which will be used as a secondary or back-up power source for wind power projects and will also provide electricity to future developments within the Eastgate Industrial Area. The applicant has proposed emission stacks less than 70 ft. in height to comply with the Zoning Ordinance and has proposed that this project be phased. Condition 8 in the staff report indicates that both phases of this development shall be authorized to completed within 5 years. A maximum of 3 extensions may be granted. This condition would replace general conditions 34 and 35 and allows for greater flexibility in the timing of the plant’s construction. If the Commission opted to not utilize condition 8, we would suggest that conditions 34 and 35 be utilized to give a timing requirement for this proposal. Staff would like to indicated that representatives from the Department of Environmental Quality are in attendance as well as I have not identified them at this point but I believe there are also representatives of the Boise Airport. I will bring up copies of a Power presentation that will be displayed later on, as well as additional copies of the Gateway Power Plant Air Quality Modeling Analysis which should be in your packet, however this one will also include pictures with clarity and color for better understanding of the emissions related to the plant.

Commissioner Fadness – For the record we’ve received a packet by Mountain View on the project itself and also an air modeling summary prepared by Greystone Environmental Consultants. Condition #8, as long as it’s included, then precludes the need for conditions 34 and 35? If 8 is not included, then you want 34 and 35 included?
Mr. Miller – That’s correct.

Bob Looper (Applicant/1100 Harcourt Dr./Boise) – The last time we were here there was a focus on air quality issues and I’m sure that most of the focus in the audience tonight is on air quality issues. I’m not going to go through all the information you have in front of you in great detail, but will focus on air quality. DEQ is here tonight and is probably even better prepared to answer detailed questions. Also here with me tonight is Ron Williams, my partner in this venture. The proposal that is in front of you is two plants. Plant #1, which is a 172 megawatt gas fired power plant and plant #2 which is a plant that could range in size. It really depends on how we fit the need, both for the industrial park as well as for the growing wind market. The intent is to use this plant to firm up wind energy. Wind is a variable energy. It’s a non-firm resource. To make the wind asset that we have in Idaho more effective, we believe that it needs a firming source directly at the load center. When I talk load center I’m talking Boise, Idaho, the Treasure Valley. This is where the propensity of the load for Idaho Power is. The project that we propose is to really meet the growth that’s happening in the Boise Valley which is a peaking growth. The one thing that we want you to take away from tonight is that we have tremendous growth going on in the valley and it’s focused on our summer peak load, our air conditioning load. For every residence that is located in the valley, its average load is magnified by 4 times on peak for its summer load. Because we have so much residential type of growth here the problem that Idaho Power faces is a peaking type of load and that’s the deficit that we’re facing right now. That’s the need. That’s why we are proposing this particular project. The second thing I want you to take away from tonight is we are proposing now the best available control technology, both in emissions and in any environmental impacts related to this project. The third is why we are here. We’re here because we went to the City and asked where you might put such a power plant that’s needed in the valley. They said the Eastgateway Industrial Park is zoned industrial and this is where we want our industrial assets to grow. So that’s where we looked and we looked at the assets that were there including things such as the existing gas and water lines, their location to the power line. That’s why we are there in the Eastgate Industrial Park. There are economic benefits of course that will come to this. These are long-term, systemic economic benefits. These power plans are there for the long-term, 50 to 100+ types of years so it’s not just the property taxes, it’s also the employment, it’s also the investment on an annual basis on O&M that goes into this plan. It’s about a 75,000,000 type of investment that will be made in this industrial park and it will be a magnet for other industrial growth in Eastgateway Industrial Park. We’re a company who’s done this. We’re in Boise. We did it out at Mountain Home. The plant is operating safely, it’s performing very well and we have a really good track record. What we are proposing to you is not something that we haven’t done before and done correctly. This is the other side of the tracks so to speak, the other side from Micron. You’ll see from our Environmental Impact that it is a good location for an industrial park and a good location for the power plant. Another view is the Idaho Power 230kv overhead transmission lines which are 60 to 85 ft. tall. They are the main circuit that goes from the Boise Bench Substation all the way to Caldwell. It’s the main power link that crosses through the valley. There’s obviously some discussion from the Airport and concerns. We know we are 2 miles from the Airport and in fact we are in the 100 to 1 surface. We penetrate in that surface by 33 ft., but so does the natural
ground. What you have from the Airport of course is that the ground really rises away from the Airport. We really strategically sited it as far as we could up against the hills knowing that from a flight safety standpoint and have had discussions with the FAA that from this standpoint that this is from a standpoint are we going to be a hazard. This is not in a hazard location so a lot of consideration was put into, within the industrial park, where you might locate such a power plant. We see the power line right in front of the power plant which is taller than the stack. We see the stack behind that then of course we see the ridge going behind the power plant. Our plant in Mountain Home is almost identical to what we are proposing to put in the Gateway Industrial Park. We have the air inlet, the housing. We have the turbine generator. We have the stack that is 60 ft. tall. We have a transformer. We have a warehouse building, an administration building and a transformer. This whole area takes up about 4 acres in terms of its footprint. The tallest feature in there is 61 ft. You’ve heard the term peaking plant and what this plant does and the difference between the base load and a peaking plant. Here in Idaho we’re blessed with a lot of hydro. The hydro that we have in Hell’s Canyon is what’s been following our load for all these years and allowing us to grow and keep our energy costs down. We also have base load coal plants that we import from Nevada and Wyoming and these resources are turned on and turned off. You don’t really start these resources up unless you are going to run it for a long period of time. These are base load resources. This is the dominate load that we have. We also have some QF generation. What’s happening is our load keeps growing with the residential growth. We’re having no way to meet our peak summertime loads. We have no way to import any more power because we’re transmission constrained. Because of that we have to figure out how we’re going to build and meet these peak loads and we started by building plants like the Bennett Mountain Plant in Mountain Home. That plant operates on peak, typically during hot summer days. It operated 290 hours in the 2nd and 3rd quarters last year. It will vary year to year depending on cold, how hot we are, what our actual power demand is and what the hydro year is. It will operate a different number of hours, but it is not a base load plant. You have a report from DEQ. They’ve completed an analysis of the plant. We provided them some data. They did their own analysis as requested at the last meeting. In addition at the last meeting you guys asked a couple of things. One was had a public meeting which we did on the 19th out at Ice World. We made a presentation there very similar to this. Spent quite a long time answering a lot of questions there. We also completed an additional analysis including, maybe you’ll hear some more from DEQ on a PM2.5 Analysis. Submitted that data to DEQ so that they could run their own determination as to the impacts on air quality on the power plant. What you will read in their report is that impacts from PM10 and PM2.5 nitrogen dioxide, sulfur dioxide, carbon monoxide, were well below applicable standards when combined with background concentrations. I’ve got some tables here and I know they are going to look like a lot numbers, but this is the only way I can really explain it. There’s really no way to generalize this and compare this. We made a pact with the Idaho Conservation League and the City and DEQ in working out how this plant could represent the type of clean technology that the City of Boise wants to encourage in their industrial park. That pact has two components. The first component is that we use best available control technologies on our emissions, which is not required. A minor source permit application does not require us to do that. The second thing we agreed to do is to cut our emissions in half, our nitric oxide emissions in half, from what they were at the
Bennett Mountain Power Plant, which of course incurs costs, but there’s a new technology that became available to us from the vendor that the vendor is willing to stand behind and so we agreed to provide that. So that was captured in a condition. We agreed with DEQ that the City has captured and that came out over the last 30-day process. Our final statement regarding that is just that everybody here is interest in how does that affect them and how does that affect the Treasure Valley. Carl had earlier put on the wind rows. This is the base data from which is used, both the metrological data set as well as the background emissions data set. These tables that you are about to see are going to contain numbers that are EPA standards, that are in fact the valley’s background emissions, what we breath out there, and then in fact what we modeled. I’ve put three charts together for you. The first one is carbon monoxide. The National Ambient Air Quality Standards for carbon monoxide for 1 hour is 40,000 microgram per cubic meter. That’s a measure of how much in a cubic meter of volume of air of pollutant is present. Given that type of unit you can kind of look at the type of scale we are talking about. The EPA level of significance is 2,000 micrograms per cubic meter up against which were judged. The background levels in Treasure Valley air quality that we are provided by the State to model our 10,200 micrograms per cubic meter. If you look down to the bottom line if you were living in Columbia Village or Blue Lakes, your impact from the power plant would be less than 25 micrograms, about 25 micrograms or .01% of what the significant levels are for carbon monoxide. I tried to put a couple of other things in here to help you understand what that means. For example, your average indoor residence, carbon monoxide breathing, is 570 to 5,700. It really depends on whether you have gas appliances or not. If you have gas appliances you’re going to be at the upper end of all these numbers so you’re going to see so you’re going to be at the 5,700 microgram per cubic meter range and the power plant is going to be, at your residence, something in the neighborhood of 25 micrograms per cubic meter. Our maximum impact, and this is why that wind rows was so important, is at the power plant boundary you will see the 1228. But, you can see what happens with dispersion by the time you get to the highway, you get to the Airport, you get to the surrounding, it gets down to the point where it’s not even measurable. This is going to be typical of all the pollutants that we’re going to provide you. The reason we’ve reprinted this report that you got in black and white because it’s a very difficult graphic that was produced, but we’ve reproduced it in color and what you will see on all of these figures is you’ll see the progression of the isohyetal lines that show what the concentrations of pollution are. What you’ll notice is that there are no concentrations of pollutions out towards Columbia Village, out towards Blue Lakes, out towards town. The reason that is is because the dispersion that happens because of the meteorological conditions that we have, the fact that is it an upper air. It is not a lower ground type of auto emission. You won’t see any measurable emissions in these population center areas and that’s true of all of the graphs going through all of the particulate pollutants. Nitrogen dioxide, call them nitrogen oxides as opposed to nitrogen dioxide. NO2 is a good component of NOX. We refer to it as NOX which is pre-curser to Ozone, one of the bad ones. That’s why we focused on that when we talked about cutting our power plant emissions in half. Again, here you see that the annual standards from the EPA is 100. You can see down at the power plant that we’re less than .01. At Blue Lakes and Columbia Village we are 4.1 at the power plant boundary. There’s a new standard coming in eventually that’s going to be for PM2.5. There’s not a procedure really for that right now so we agreed with
DEQ to assume all of the PM10 to be PM2.5 so we did a very conservative analysis. You can see that the levels for EPA are 150 and 65. Our background levels in the valley are 86 and 53 and the levels that would be measured in the population center areas are less than .05. These are not even levels of significance that you can even measure from the power plant. I think there’s been a lot of information out there. A lot of people are concerned but what we’ve provided to you is a power plant that’s state of the art, clean burning that meets a specific need. We’ve put the best available control technology on it that we can at our cost and we think it represents a good type of clean technology that the City of Boise should support for the industrial park.

Commissioner Wilson – I noticed that the Airport still hadn’t submitted any kind of letter of approval. There’s still just two letters of objection and it sounds like from staff’s perspective and also from presentation that we just heard that there aren’t going to be any navigation issues, but because the Airport hasn’t come out officially and said that they don’t object to it, I would just like to hear from them if there’s a representative here.

Commissioner Fadness – Is there a representative from the Airport that would like to answer Commissioner Wilson’s question.

Matt Petaja (Representing the Boise Airport) – We did submit a letter of objection to the application originally. The basis of that was that the Park 77 Federal Law has a standard that if it penetrates that imaginary surface, then we are required to object to those. We hadn’t seen the submission of an application to FAA to notice proposed construction to review it yet. So based on that we objected to it.

Commissioner Van Ocker – I understand the numbers from the fact that you are presenting them to us, but could the applicant explain how he was able to determine those numbers?

Mr. Looper – That might be a better question for DEQ because quite frankly we just follow their book and they wrote the book.

Kevin Scheline (Dispersion Modeling Coordinator/Idaho Depart. Of Environmental Quality/ 8525 W. Canary Ct./Garden City, ID.) – What Mountain View Power has done is used typical atmospheric dispersion models. What these models do is they enter their maximum emissions that’s possible from their plant and then we develop a configuration of their plant and we use actual meteorological data that’s collected at the Airport to drive these models. What they do is simulate how the pollutants disperse in the atmosphere. We set out a grid out from their facility. What the model does is keep track of concentrations of contaminants. The results of these models use the maximum worse case model concentration and then that is added to a background and then compared to the standards. That’s the basis of Mountain View Power’s analysis. What DEQ did is we carried a step further beyond what is required of minor source permits. There’s pollutants that are secondarily formed in the atmosphere, that’s PM2.5 as well as ozone. For PM2.5 we used a model that accounted for atmospheric chemistry and that is sulfur oxides in the atmosphere and nitrogen oxides react to form secondary particulates. We used a model that
accounted for that. We also came up with values that were well under one microgram per cubic meter for the secondary PM2.5. For ozone it’s a little more difficult. All we had was a very crude screening technique of tables that they refer to as Sheffield Tables. You basically enter your organic emissions as well as nitrogen oxides and it comes up with a very conservative number. I think it came up with around 20 parts per billion. The standard is 80. Some of our background concentrations have been up in the 70’s. What that would trigger in some cases would be a more extensive analysis of air shed type modeling. We currently aren’t at a point to where we can put the data in an air shed model to look at those analysis yet. That’s a very difficult model to run, probably a $200,000 exercise. DEQ is moving in the direction of doing that. We may be there in another year. I would not even want to speculate on what ozone impacts might be, other than saying at the very worse, we would have a 20 part per billion impact.

Commissioner Van Ocker – In any of your modeling, was the conditions that we often times experience in the valley with our inversions, was that able to be modeled also?

Mr. Scheline – In the more simplistic models that’s used for new source review within the permitting system, those models don’t handle wintertime stagnation periods. However the model I used for the secondary formation does handle period of wintertime inversions and very low wind speeds. So that is considered, at least to some degree.

Commissioner Cooper – The wind rows seems to show dominant wind patterns both to the southeast and the northwest, but these impact maps of the particulates and pollutants all seem to head to the southwest. Can you comment on why that is?

Mr. Scheline – The wind rows is predominant wind direction. That’s not necessarily what’s going to lead to the maximum ground level concentration. Often your higher impacts are associated with sometimes lower wind speeds and periods of stagnation so it’s not always your predominant wind direction that leads to your maximum impacts.

Commissioner Brunelle – In looking at these contoured drawings in the report that was prepared by Greystone, what’s the driver in here on the dispersion? Are we looking at average wind conditions from the northwest and the southeast?

Mr. Scheline – What the model uses is 5 years of hour-by-hour actual data collected from Boise Airport. During March it’s actually using the weather conditions during that day. I think the data set that was used was 87 to 92. It uses actual collected wind data to drive the model.

Commissioner Brunelle – But then it boils it down to a single measure because you end up with contour lines showing where levels of concentration are and they’ve got to be based, I mean if it’s boiled down to one number it’s got to be an average.
Mr. Scheline – There’s several different outputs that the model gives depending on what the standard is. For instance, PM10 is a 24-hour standard so during each day out of the year the model calculates a 24-hour average concentration at each receptor and then the output is the worst day at each of those receptors and that’s what the contour ends up giving you. It’s a contour of the worst days.

Commissioner Brunelle – So then what we are looking at here is the worst day in that 5 years that occurred where there was no wind?

Mr. Scheline – It may or may not have been at a time when there was wind or there wasn’t wind. At each particular receptor it will be the worst case. It won’t necessarily be the same for each receptor. One receptor that’s very close to the facility may be associated with a summer day where there’s a lot of thermal activity that brings the plume down to the ground relatively quick. At a more distant location say in the foothills, those maximum impacts may be associated with a higher wind that’s taking the plume right over into the foothill location. It’s a collection of the worst case days that’s on the contour map. On any particular day you would see something typically not quite as high and probably a different shaped contour.

Commissioner Brunelle – What would you see for PM2.5 after say a week of an inversion similar to what we had experienced since the last hearing when we entertained this proposal?

Mr. Scheline – You mean what would we see as far as concentrations from this facility?

Commissioner Brunelle – Yes.

Mr. Scheline – I would have to go back and look at the data to see what concentrations were predicted during what particular wind conditions. But I would expect that a fair number of those conditions in the model were a result of low wind conditions.

Commissioner Brunelle – In reviewing the documents, I take it what was presented to DEQ was a modeling exercise of one power plant, not two.

Mr. Scheline – That’s correct.

Commissioner Brunelle – So what we do not have here is accumulative affect of two plants which is what’s been proposed to this Commission. So what we are doing is looking at and basing our decision on the air quality impacts of one, but we’re being asked to approve two?

Mr. Scheline – That’s correct. We were only given information on the number one power plant. We were not given any information on the second power plant.

Commissioner Brunelle – What was the explanation on why there wasn’t a second?
Mr. Scheline – I had asked Greystone, I don’t believe there was an official explanation other than it hadn’t been developed yet and it wasn’t a sure thing.

Commissioner Pavelek – It’s hard to have some perception of the impact on the overall background pollution within the valley here. The other more specific speculation almost is, is this location better or worse than others that would generally be found? Do you have any insight or speculation on this location for a power plant from an air quality perspective?

Mr. Scheline – Not really. At DEQ we really don’t look at numerous locations to evaluate whether something would be better located at this location or somewhere else. In order to really do something like that we would have to do a sighting type of analysis. There was nothing from an air quality standpoint that really jumped out and hit me with a red flag as far as building a plant that’s in close proximity to the city. I don’t see anything obviously jumping out and saying whether it’s a better or worse location than anywhere else.

Commissioner Fadness – Would I be making an illogical conclusion if I surmised that the second plant, for which you’ve not received information on, because it’s a smaller plant, because it’s proposed to be primarily back-up for wind generation, that it’s impacts would be less than plant one or can we make that conclusions?

Mr. Scheline – That would be a lot of speculation. I really would hate to try to speculate because there are so many things that play into impacts. Certainly on an emissions only basis if we were to say it was located at the exact same place and if it only has a third of the missions, then the impacts would be a third of what this one would be, but that’s just saying if it was exactly in the same place and emitted things in the same way. There is a direct relationship between the quantity of emissions and the ambient air impacts. Given a particular plant, if you double the emissions, you double the impacts such as the control technology by reducing the knox emissions in half, that reduces the knox impact in half. I would really hate to try to throw out a number for speculating the impacts of plant two. I don’t know exactly how close it’s going to be to plant one. I don’t know how the emissions are going to be emitted from the plant so I really couldn’t speculate.

Commissioner Fadness – I just want to understand where DEQ is in the process so far. Quoting directly from our staff report it says that the DEQ report indicates that the impacts of all the pollutants are well below applicable air quality standards, even when combined with background concentrations based on air monitoring data collected in the Boise area. It also says that conditions of approval requested by DEQ will insure that air quality and water quality will be protected. A fugitive dust control plan, which incorporates best management practices, will be required, and DEQ is also requesting an odor management plan using appropriate best management practices. Given all that, where is DEQ in actually issuing the permit?

Mr. Scheline – We have not received a permit application at this time. I don’t know when we will receive one. I would assume it would be sometime after they get through getting their
conditional land use permit that they would think about submitting their permit application to DEQ. We have received the dispersion modeling protocol which basically put forth how they intended to do the atmospheric analysis as part of their permit application. But, that’s all that we’ve seen.

Commissioner Fadness – You referred to this area being transmission constrained, especially during periods of peak use. Is it not the case that our utilities are working with regional entities to access other power sources in the Northwest or in the region and that with some transmission upgrades we could accommodate other power sources during peak hours?

Mr. Looper – You could and there are several plans. Most are billion dollar type of plans. There’s plans to bring new DC into the area from Canada and down. There’s plans to beef up what we call the mid-point substation which is where a lot of power from Idaho comes in. They all involve upgrades to corridors and lots of money. I’m sure there will be some transmission upgrades and there will be some new transmission brought into the Treasure Valley. It’s not just that transmission, it’s also how does it get into the Treasure valley, how does it get into the Boise Bench substation and how does it get over to the other side over to the Caldwell/Nampa area where the growth is going? It’s going to be needed regardless of new transmission corridors. It’s clear that the type of load center generation that we propose will help not only alleviate that problem and dilemma, it will just be a small portion of that. It’s also the type of black start capability that Idaho Power does not have in the Treasure Valley right now. It’s also a very quick response, up to a 10 minute start time right at the load center. There’s a lot of advantages to having something at the load center which we don’t have in Idaho right now. We’re actually without that type of power plant capability.

Commissioner Fadness – If you receive approval and get your permitting from DEQ, when do you expect to be on-line?

Mr. Looper – Because we have the DEQ permitting to go through, we have the inner connection with Idaho Power process to go through. We have the Airport process. It will be another 6 months to a year into permitting and 12 months to construction. Probably in there there’s some slip time. We’re probably 2 to 2½ years to get the project on-line.

Commissioner Fadness – How much quicker, if at all, would that be than some of these other solutions we’ve talked about?

Mr. Looper – I don’t think there’s a 5-year transmission solution on the table right now. Most of these are all out to 2012 to 2017 to try to correspond to some of the big coal proposals that are being placed on the table right now. How are you going to get this big coal generation, are you going to locate it in Idaho or locate it in Montana and bring it in? Those things are going to go hand-in-hand. Those are going to be very large projects.
Commissioner Pavelek – In the correspondence we received from various members of the public there’s a concern about the availability of natural gas. Could you comment on your feelings or projects whether that’s a viable resource to tap for this use?

Mr. Looper – As a base load plant we don’t believe it would be a viable resource, 365 x 24. It’s a very costly resource to say the least. Because this is predominantly a summer peaking resource, our gas use is predominantly winter peaking. There is actually a cyclical load that goes on the gas pipeline and we actually fill out the gas pipeline by using gas during the summertime. There are other industrial competitors out there that do use gas year-round, but generally we have this big winter, November, December, January, February, gas load right now and the predominant gas use is going to be July, August and September, so from a purchasing standpoint and an availability standpoint it’s the best availability in the valley. The Northwest Pipeline is actually beefing up our gas capability into Idaho right now.

Commissioner Pavelek – As I understand it, part of the power generation will be to supplement the wind generated power. Where is it anticipated that a wind or turbine farm might be located and what’s the timeframe of that proposal?

Mr. Looper – With the number of wind proposals that came into Idaho Power, there was a moratorium slapped on because they just did not have the capability to bring in that much wind into their portfolio. Part of it is because their only assigning a 1, 2, 3, 4 percent firmness to wind because you just don’t know when it’s going to blow and so it’s not a firm resource. What’s happened is it’s frozen the wind development. In states there are 50, 100, 200 megawatt wind farms proposed and there is a lot of wind potential in this state. Idaho Power, the utilities would like to see that packaged by some type of a resource that backs up the wind so if the wind doesn’t blow, there’s a resource there that can kick on. That’s the type of compatibility resource that we’re looking for to allow, some more wind to come into the markets. That’s why we don’t have a specific unit picked out. The air analysis is just very specific to the XYZ location, the height of the stack, the characteristics of the actual generating unit and we need to work through that with the wind developers to a proposal that’s acceptable to Idaho Power and then select that unit. But, it will certainly meet the best available control technology like we proposed on the first unit. That’s where we are in that process is working through with the PUC and working through with the wind folks and trying to put that type of a package together.

Commissioner Fadness – I would like to clarify that there really isn’t a moratorium, but there is a size of projects that could qualify for a special rate has been reduced. But, there’s nothing that stops a utility, like Idaho Power, from negotiating its own contract with a wind generator. There is a waiting period on smaller projects that can qualify for this special government rate.

Commissioner Ellsworth – Are there other RFP’s that your competing against that Idaho Power is considering right now?
Mr. Looper – They do a renewable RFP that they’ve had and there will be another one coming out for wind and we would be competing in that for plant #2 and the peaking type hours … that we compete in for plant #1, those are two different types. We expect that almost every year or so there’s going to be a new RFP coming out from Idaho Power to continue to fill the need. The valley growth is about 80 megawatts a year of which 30 megawatts is peak loads. There’s a lot of growth over the next few years. We’ll be trying to competing with these plans and make the most cost effective in each one of those RFP’s and hopefully get selected and be able to build these projects.

Commissioner Ellsworth – So what’s the likelihood that if this is not approved that this would be built outside of our approval, our purview, at a lower cost without the lower emissions that was suggested by DEQ and the Idaho Conservation League?

Mr. Looper – Idaho Power will have to move forward and build resources to meet the load. They will pick the best option that they think is the lowest cost option for rate payers and consider those things and they will have to build these resources, so if ones like we’ve proposed aren’t built, they will have to be built someplace else.

Commissioner Ellsworth – I did notice in our packet there was a letter from the Mayor of Mountain Home that said that they were asked to give a proposal as well in considering doubling the size of the Bennett Plant.

Larry Crowley (5549 S. Cliffside Ave./Boise/83712) – I’m here this evening to express my support for the project and offer my encouragement to the Commission to approve the project as it has been proposed and subsequently modified to meet higher environmental standards requested by various stakeholders in the community. My background and experience for the past 30 years includes extensive work with electric utilities located throughout the United States, Latin American and Europe. I have been specifically involved with transmission and resource planning activities for a number of electric utilities including the Idaho Power Company where I worked over 20 years before retiring in 1999 to form my own company. In 2005 I was appointed by the Governor to serve on the newly created Idaho Energy Resources Authority which was an entity approved by the Idaho Legislature to secure funding for transmission and generation projects required to adequately and reliably serve the citizens of Idaho. I currently reside in southeast Boise and have lived in Boise for almost 30 years. I am personally and professional supportive of the project and believe that it should be found acceptable by the City of Boise for permitting. The project consists of two medium sized units which will not only respond to the need for additional energy resources in the Boise area, but will also work to compliment and support the development of renewable energy technologies such as wind power. The location of the project is ideal in terms of its proximity to the community, thereby reducing reliability concerns as well as its proximity to the existing transmission network which will reduce the need for additional transmission lines. In addition, the project developers have committed to using best available control technology to limit emissions from the project. While this will result in significant additional costs for the project, it will make the project more acceptable and
compatible with the environmental concerns and expectations of our community. I believe the developers should be commended for their willingness to collaborate with other stakeholders to make the project successful and be responsive to the concerns of those stakeholders. Finally the project is being developed by a Boise-based company rather than by an out-of-state developer who will be responsive to the concerns and needs of the community. Given the facts about this project and its location, based on my background and professional experience, I believe this project should be approved by the Commission. This project not only represents good operating and design elements, but also shows what can be achieved for the benefit when all collaboration and cooperation exists between and among all stakeholders. This process should be supported and encouraged by the Commission and serve as an example for the future.

Brett Crow (1717 E. Picabo Ct./Boise/83716) – My comments will focus on the plants’ location, concerns about the staff report and pollution mitigation using pollution offsets. I support the plant with such offsets and changes to the staff report, otherwise I don’t. Doubling the plant’s distance from Boise would reduce pollutants that reach the city by roughly 7 parts in 8 or 87.5%. This kind of more remote location would increase plant costs, forego city tax revenue, yet still provide electricity benefits. By comparison then this location provides cash to the plant owners and to city coffers in return for an eightfold pollution increase. I don’t find that trade worthwhile. The staff report tends to use terms like vicinity of the plant, narrowly for negatives and broadly for positive which provides a bias in favor of plant approval. In addition, the staff report contains numerous examples of negatives that could occur without the plant such as brownouts and lower economic growth. None of these are supported by data and the contrary is equally true in each case. The tone of those comments in appropriate at best. Data provided by Mountain View Power at their December public meetings suggest to me that this plant is a good opportunity for pollution mitigation with pollution offsets, also known as emission trading. This approach is clearly allowed by policy in the City’s Comprehensive Plan and was suggested at the Governor’s Conference on Air Quality in the Treasure Valley. For example, Mountain View said it’s Bennett Mountain Plan is comparable to the Gateway Plant and that the Bennett Mountain Plan emitted 14 tons of nitrogen oxides last year. The Sugar Plant emitted 14 hundred tons so reducing the Sugar Plant’s emissions by 1% would provide a complete offset. Both firms would emerge as good corporate citizens, one or both would save money compared to avoiding pollution alone and the public wouldn’t face greater pollution. In effect, local pollution sources can be thought of as opportunities just like a store with thousands of blue jeans, a valley with thousands of air pollutant tons probably has offsets suitable for this plant. Mountain View has already shown a willingness in ability to address potential problems. An offset plant would mean that any plant owner factors the costs directly into their business, finds the cheapest avoidance methods, limits any affect on the price of electricity and considers pollution avoidance costs no matter when or how long this plant operates, even 50 to 100 years in the future. If offset costs are too expensive, then I recommend you deny the permit. That argument amounts to saying that the plant wouldn’t survive in the market without a subsidy provided by dirtier air. I don’t think that kind of subsidy is good public policy.
Dennis Baker (#120/250 S. Beechwood/Boise/83709) – I own property immediately to the south of the Boise City property. It is at the Isaac’s Canyon Interchange. We have been in discussions with Boise. We are looking at working in conjunction with Boise City relative to development for residential and other uses in the area. The proximity to arterial flow from the Interstate is great. It’s always been great. I’ve only been a landowner in that area for about 35 years. It’s been awhile but the time has probably more than come and we are in the process of discussions with your Planning & Zoning people, at least Hal Simmons was in attendance with the Mayor. We are discussing some things relative to Boise. We’re also looking at other alternatives within the County. If I take a neutral position, and that’s probably where I really am, I would like to ask a couple of questions of the applicant. The first would be what type of landscaping is so minimal that it looks like we’re only doing a token of landscaping and I’m not sure why, probably because it looks like a desert out there at this point which it has looked that way for years. If you’re above and looking down it’s not going to be visually pleasant, as pleasant as it might otherwise be. Berming and landscaping to that end I would even offer some from our tree farms. We do grow trees. We do plant a lot of trees as in Island Woods and Two Rivers out in Eagle. We grow about 50,000 trees. I’m not trying to sell trees. I would actually help them in donation of trees if they would use these trees. I also have ambient light or just lighting while in operation that could be visual from the Interstate that would be of concern to me. The compatibility as a neighbor, if we go to residential at some point in the near future, it would be good to have compatibility and I know that in your Comprehensive Plan that is one of the things that you regard in the highest degree of order is that is it compatible with the area. Obviously it’s desert sagebrush now but we hope that that is not the case in the future so I’d like a few answers on the questions that I brought up about lighting and landscaping and it is compatible with us to join with Boise and expand your industrial area by getting residential activity in the nearby area.

Ralph Perez (6023 N. Garrett St./Garden City/83714) – I’d like to comment the applicant in their efforts in mitigating the pollution and choosing to go with the new technology with this plant as opposed to what they did at the Bennett Mountain Plant. I represent Mr. Baker and Mr. Leader on the property that is located contiguous and to the south. We’ve got a project there, Isaac’s Canyon, which is somewhere between 800 to 900 acres that we have been in discussions with the City of Boise on. I’d like to be able to say because we do realize we need power, we’re developers. We’d like to see the valley continue to grow so we’d like to be able to say we support this project, but unfortunately we can’t. Nor can we in general say that we are opposed to it, but we are opposed to the efforts by the applicant to mitigate visual impact. There’s virtually no effort here. The limited amount of landscaping that they are proposing is located exclusively on the north end of the project. The visual impacts that we are concerned about are the visual coming off of the freeway because as the traffic flows out towards our project and out towards Mountain Home, if any of you have ever driven by the Bennett Mountain Plant in Mountain Home, it sticks out and has a very industrial look. Although this is an industrial park, that doesn’t mean that it needs to be unsightly or should be allowed to be unsightly. From the gateway, which we consider the gateway to Boise as you’re coming into town, this visual corridor here is important as well as ridgeline which is potentially a residential use and would bring into concern the southern exposure. Those are where we would like to see some
improvements, some addressing of this application. Mr. Baker indicated that he does extensive landscaping out at the Two Rivers area. You’re looking at 10 to 15 foot berms with mature landscaping and I think where this is the first project that’s going into your industrial park, there’s an opportunity to really dress that up, really make a statement and then in fact it will be the draw that the applicant has indicated for future development. The cost of doing it now, as it’s amortized over the life of the project, is minimal and the gravel from the hillside is there to provide the berms at little or no cost to the applicant. I wish you would really seriously look at that.

Ellen Hall (1919 Harrison Blvd./Boise/83702) – I’m here tonight on behalf of my husband, Harry Hall, who couldn’t be here tonight because he is out of town on business. On his behalf I want to read an excerpt from his statement that he e-mailed to the Commission on January 6th and part of his comments were mentioned in the Idaho Statesman’s article on Sunday, the 8th. “As a resident of Boise and the Treasure Valley, I’m very concerned that the Commissioners consider several issues when addressing the proposed power plant project. Details of my concern are attached and a summary is listed below. As the sole representative of the City in this process, the Commission has a responsibility to the citizens of Boise to look at all the issues surrounding this project and should not be restricted to land use and zoning issues. As a sole representative of the City in the process, the Commission has a responsibility to the citizens of Boise to conduct a thorough review of the project. Can the Commission bring resources to bear that properly address all of the environmental issues, air, water, noise, etc. that are of concern for this project. The Commission should consider that the impacts of the project extend well beyond both the boundaries and the City of Boise. Others in the Treasure Valley and Idaho will be affected by this decision and need to have some voice in the process. The Commission should not issue any authorization or permit until all other permitting and environmental issues are resolved. There’s no catch 22 involved in this. The developers are expected to take the permit risk. Boise already has air quality issues that are problematic. It is currently designated a maintenance area by the EPA for air quality particulate and carbon monoxide emissions which have been a problem in the past and maybe a problem in the future. Should be add to those problems with a new source of pollution that could be located elsewhere? EPA is considering making the standards for particulates more stringent. If they do, the Treasure Valley will be a non-attainment area which is a serious designation and will subject us to stricter air quality requirements. Mountain View’s project may contribute directly to that designation and the Commission should not act in advance of knowing whether EPA is going to make that change or not. Mountain View originally proposed to meet much loser air emission standards and the subsequent agreement with the Idaho Conservation League still does not make use of existing and proven technology that would result in far lower emissions.”

Commissioner Fadness – For the records I would note that we do have Mr. Hall’s full comments in the packet we received.

John Crockett (3296 Snowflake/Boise/83706) – I also have spent my career in the energy field. From an energy standpoint these projects make absolutely no sense at all. They will significantly
increase our electricity and natural gas costs and will ultimately put our electrical supply at risk. My biggest objection is they will emit large amounts of pollutants into the Treasure Valley air shed. I have 4 children that already suffer from air quality problems. One of my children in particular is essentially bedridden during inversions like we had last month. Exposure to pollutants from these plans is know to result in severe life-long health effects including heart and lung disease and premature mortality. Emission from these plants will cause more people to suffer from asthma and worsen health, asthmatics and trigger asthma attacks. These plants, by design, will operate during the worst possible periods. In the summertime, long hot days will create ozone and according to an Idaho Power press release dated December 19, 2005, new electric demand records were broken on December 8th and 15th during an inversion period. These plants will be operating during these periods. It’s hard for me to understand how the City typically puts out burning bans for people to heat their homes, but now we’ll say, gee, we’re going to make you buy electricity at four times the cost of what they are paying now to buy electricity from natural gas that was burned to make electricity, now they are going to use that electricity to heat their homes. The efficiencies just aren’t there. It’s three times more efficient, let them burn their wood to heat their homes if you’re going to do this. If we are to believe what Mr. Looper said at our public meeting, the new technology will result in a large heat plume that will blow through the inversions during these winter periods. I might also say that in his presentation on the 19th, right here we’ve got nitric oxides that are going to be produced. This is laughing gas. I don’t think he meant that and it would probably be funny if it weren’t such a serious matter. Southeast Boise is already at air quality limits for Federal standards. There will be virtually no jobs created as a result of these plants.

Kathleen Fahey (2808 S. Colorado Ave./Boise/83706) – We all know Idaho’s power needs are growing. We expect 253,000 men, women and children to be working, driving, playing soccer and breathing our Boise air within the next 9 years. To provide for these needs tough choices will be made. Each choice will profoundly affect the quality of our lives. Mountain View Power must receive approval for its application by Boise Planning & Zoning Commission and obtain an air quality permit from the Idaho Department of Environmental Quality before it can built its two power plants. Many states have commissions that make these very difficult decisions. For instance, Oregon’s Energy Facility Sighting Council beings their review by asking three fundamental questions: (1) does the applicant have the appropriate abilities to build this energy facility; (2) is the site suitable; and (3) would the facility have adverse impacts on the environment and the community? Neither Boise Planning & Zoning nor IDEQ are required by law to review proposals in this comprehensive fashion. This proposal may in fact meet Federal air quality standards and receive a permit from IDEQ. It might meet land use ordinances, but this proposal would not past muster with a comprehensive review of the three questions that I just posed. Mountain View Power has voluntarily agreed to install equipment to reduce toxic emissions by 50%. The fact that the company is willing to spend big buck to reduce pollution and gain public support shows the company does have the technological expertise to do this. They are willing to spend 7 figures to improve the emissions while we also have the technology to build more transmission lines, lines that will be needed in the future to accommodate growth and wheel power back and forth to other markets. Why not do this right now? Build these
transmission lines a short distance from the area that is proposed, get this in motion the way it should be. Before we make this tough choice, we need to look at alternate locations away from the most densely populated bowl of Idaho. I love living here so let’s treasure our valley and the air.

Dan Buerstetta (5473 S. Broadwing Way/Boise/83716) – A couple of days ago our normally healthy son asked us to take him to the doctor because he was having trouble breathing. I think that’s emblematic of our situation here. We have a quality of life issue here. I came 5 years ago from Austin, Texas. They had a nickname for the Chamber of Commerce, it was the Chamber of Concrete. They expanded and expanded. The city got so polluted and gridlocked we decided to move. Mountain View Power Plant has us over a barrel. If we don’t accept their revised offer of cleaner power plants, plants which would produce tons of pollution nonetheless and are way too close to town. They could relocate their plant to just beyond Boise’s jurisdiction. They could build an even more polluting facility in a more lax Ada County or any several other jurisdictions surrounding Boise. MVP claims prevailing winds will clear the air. Ironically there’s often no wind during times of peak energy demand such as hot summer days and cold inversion days. MVP also claims that the heat plume will pierce the inversion layer. If it does it certainly won’t be anywhere near 100% of the pollution escaping. We already have days when schools cancel outdoor recesses due to poor air quality. Our children can’t play outside and we’re here talking about adding to the problem. Simplot Field, where thousands of kids play soccer, is very close to these two proposed plants. Income to Boise, about $1 per year per citizen in exchange for dirtier air and poorer health. Making electricity readily available encourages urban sprawl such as the proposed 1,200 home Hammer Flats Development. More homes, cars, pollution, traffic, infrastructure and the resultant taxes. In fact, one of MVP’s goals is to facilitate industrial development, another form of sprawl. But, Southeast Boise already has industrial air pollution from Micron, a top point source polluter. Coke Industries puts out a bad smelling odor on a regular basis. Motor power, diesel exhaust running often early in the morning before people wake up and the dirt excavation pit which causes fugitive dust. The DEQ is having a hard time now enforcing compliance. I’m concerned to think how they might deal with a very sophisticated situation like a power plant. Power Plant decisions need state-wide oversight. One city’s decision affects another city’s health. Air pollution blows across jurisdictional boundaries. I’m asking the Planning & Zoning Commission to table this matter until we can get the State involved. This is too big for even all of us here working together. The second plant will have to run 24-7 if it’s going to power an industrial park. You can’t turn it on and off. They are going to have a refrigeration plant there. That’s going to be a 24-7 plant.

Fred Fritchman (Representing the Southeast Neighborhood Assoc./1321 Denver Ave./Boise) – The Southeast Neighborhood Association has not taken a position on this project. Some members of the board have studied the staff report however and have identified some concerns in the conditions of approval that we believe merit your attention.

Kirk Hall (346 W. Reese St./Boise/83706) – I e-mailed you earlier this morning on some of the conditions. While I’m personally dismayed that we’re sort of doing 20th century thinking in the
21st century, I decided to focus on some recommendations for the conditions of approval. The previous speaker noted an item that I think should be changed in condition 2. Since there’s uncertainty about how Plant 2 might be used, whether it’s peaking or further use, I think condition 2 should be that Plant 2 has to come back before a full Commission review. On condition 4 I would recommend you insert “installed” before 70%. I do so because ownership may change and there’s some ambiguity as to whether you are talking about the maximum approved or the actual size of a plant. Condition 5 should be modified that proposed Plant 2 meet or exceed the requirements of condition 4. In other words, you should make it clear that you expect that that plant meet or beat what Mountain View Power has agreed to in Plant 1. That would make it very clear to every party. Condition 16, I know from personal experiences it’s an irritant to many of us when staff, at a later date, make a change or a modification to a condition. I’d recommend there’s enough public interest that you require that any requested changes require Commission review and approval or at least that the Director is authorized or required to make a decision as whether such should be required. I would also recommend that what appears to be missing is that the City is potentially going to be leasing some property. There’s nothing in the conditions that require a site restoration if the plant is abandoned or is no longer in use and the City may wish to have the property returned to a state where it could be used for other purposes in an industrial site or some future zoning, so I would think that needs to be added as a condition. Chairman Fadness asked a question about alternatives. I work for Bonneville Power. In the early 90’s we had an issue in the Puget Sound. The engineers said we needed a new transmission line and that’s the only thing that could solve it. Nothing else could be done in time. Public resistance caused them to think about it. They constructed one substation and for actually 12 years now they haven’t needs a new transmission line, so a little pressure can bring a lot of things about.

Commissioner Fadness – For the record we’ve received a statement from the Boise Metro Chamber of Commerce.

Ray Stark (Boise Metro Chamber of Commerce/PO Box 2368/Boise/83701) – Our Chamber Executive Committee wanted me to come here tonight to show you our policy on power supply developed a few years ago through a task force of a cross section of the business community. Obviously we support maintaining our area as low cost and reliable power supply obviously for future economic development for Southwest Idaho. As you can see on some of those items such as hydro power relicensing, I want to highlight that the Chamber supports additional generation capability for the valley. On this particular project, with you being the Boise City Planning & Zoning Commission and having the best interest of Boise at heart, in many of the things you are considering I’d like to throw out the idea of economic development being part of the things you will consider as part of this process. Economic development is a competitive process and you’ve already heard and have seen the letter from Mountain Home. We support Mayor Bieter and the City Council’s library proposal. Part of our reasoning is economic development. To be competitive we’ll be considering a school bond here shortly as well for much the same reasons. For you to consider economic development you can think of this as a win-win project for Boise City. The additional property tax dollars from this significant valued development coupled with
I understand a lease payment as well to Boise City, could jump start the development of this industrial park, the gateway project, so Boise can be competitive with other industrial locations in the valley and other communities.

Bob Mooney (1015 W. Hays St./Boise/83702) – I’m a registered electrical professional engineer currently the chairman of the recently formed Idaho Energy Resources Authority which looks at both transmission and generation planning for a variety of utilities in the state. I’ve assisted many utilities from as far north as Bonners Ferry to the City of Idaho Falls with both transmission and resource related matters. Today in Idaho transmission is limited. If you wanted to buy transmission to either get into the state or out of the state, it’s not available. Transmission planning is critical to the State’s economy and as you look at the next 10 years, the timeline to plan transmission is really 7 to 10 years. To look at locating resources close to the load centers is both more efficient and it improves the security of the electric system. I’m here speaking in support of finding a location such as the one proposed for inside the treasure valley load center. It will be great when we have other alternatives, but at the present time my personal and professional judgment is I don’t see any. I’m a long-time Boise resident and an Idaho native so I encourage you to support this project.

John Weber (9535 W. Cory/Boise/83704) – I’m a former member of the Treasure Valley Air Quality Advisory Board representing industry. The application states prevailing wind currents below from the northwest and southeast, this is true. I have a wind chart from the National Weather Service. Looking at the map, when the wind blows from the southeast, like today, the City of Boise and Meridian are both downwind so emissions are not circulated away from the population base of Boise City the Treasure Valley as stated in the application. The inversion at the end of November this year has new residents rethinking their move to the Treasure Valley. Unhealthy air is becoming a year-round problem in the valley. Only by reducing emissions can we improve the air quality. The last inversion stopped air travel in and out of the Boise Airport. If we want to continue to grow we need to reduce the pollution in the valley. Over time property values will fall in the valley if the pollution continues. This does not take into affect the personal suffering of thousands of people and the related health care costs of their suffering. By permitting more pollution in the valley, we’re not following the Comprehensive Plan that states our goal is to: “Protect and enhance air quality and minimize health hazards associated with air pollution. According to the U.S. Energy Information Administration, 2004 production of natural gas in the U.S. was 19 trillion cubic feet. Proved reserves on 12/31/03 were at 189 trillion cubic feet of natural gas. Do the math. We cannot afford to base our economic security on a non-renewable energy source that is quickly running out. The increase in the price of natural gas in 2005 was 83% from January 1st to December 31st. We don’t have any natural gas in Idaho. It’s all imported. I would like to ask the applicant what will the cost per kilowatt hour be at $10 a therm, $20 a therm, $30 a therm? We reach $15 per therm about two weeks ago. Buy Idaho. We have no oil, gas or coal in our state. We do have plenty of wind, water, geothermal and solar. In 2006 and 2007 the Federal Government is offering generous tax credits for residents and business to install solar for electric and water heating. With people taking advantage of these incentives and increased energy conservation, we should have ample electricity for the
future. Also Idaho State will give you deductions on up to 100% for installing solar for electric or water heating over 4 years. A power plant located by a population center and close to an airport would make a nice terrorist target. At least for 25 acres for $50,000 sounds pretty inexpensive. To rent a nice apartment in Boise will run you over $10,000 a year.

Doug Smith (6004 S. Rockrose Pl./Boise/83716) – I’d like to echo some concerns about the landscaping brought up earlier. I work out at Micron and have a nice view out into the proposed development. I don’t want to look at a big ugly power plant. My biggest concern is what’s Idaho Power’s plan for generating and obtaining this power for our future needs? Are they working with Mountain View Power to make sure that they can get this power? If it’s such a big concern I would think Idaho Power would be addressing this already. I’m just wondering what Idaho Power’s path is for obtaining this electricity for the future peak loading.

Commissioner Brunelle – When we met in mid-November I specifically asked staff to see if we could get comments from the Idaho Power Company and the Idaho Public Utilities Commission for tonight. My understanding from Carl was that the Idaho Power Company was not going to make a show tonight.

Dave Ransom (3525 Norfolk Way/Boise/83706) – It was my understanding after the last meeting that there was a large showing and maybe the P&Z didn’t know exactly how to judge the current situation so they were going to request the Air Modeling Study of the DEQ and then also further submittals and testimonials from the public. I was just wondering what your process is to decide this whole issue?

Commissioner Fadness – We’ll take it up for consideration tonight and the Commission can decide to accept, delay, deny, it’s up to the Commission.

Mr. Ransom – So the main two things you are looking at are the Air Modeling Study and the public testimonials?

Commissioner Fadness – We’re looking at the entire document in front of us, everything that’s in the record.

Mr. Ransom – I know that a lot of people sent letters, e-mails and faxes to Mr. Miller. I wondered if there is an estimate of how many voicing disapproval were submitted?

Commissioner Fadness – We haven’t done a count. We received in our packet late last week comments that were issued prior to the November 14th hearing as well as the hearing tonight, and then tonight before the meeting we received another packet. I can tell you that that the majority of comments were in opposition. I wouldn’t assign a percent to that. There are also quite a number of comments in support.

Mr. Ransom – Where there dozens or hundreds or scores?
Commissioner Fadness – Again, we didn’t do a count. I would say in the neighborhood of 50 or 60, but that’s just a guess.

Mr. Ransom – I would like to point out that the applicant didn’t address ozone. Looking at the Air Modeling Study and talking earlier to Kevin Schilling of the DEQ, he indicated to me that: “Ozone is the most difficult to estimate at this point and ozone is the largest uncertainty. I would like to point out that this is the big deal with our Federal Air Quality Standards and our highway funds and that’s really important for you guys to consider because ozone should be presented. The data should be there for you to consider. Kevin Schilling indicated to me that the highest concentrations are east of the plant. However, some higher concentrations are also in the foothills of Boise and that was in that contour map.

Brett Hunt (5224 E. Trailwind Dr./Boise/83716) – I’d like to echo some of the comments you’ve already heard tonight. Our primary concern is with air quality. Regardless of how much the dispersion rate is, they will be pumping thousands of particulate matter into the air and that’s going to end up somewhere. It’s going to end up collecting in the valley as it blows northwest or it’s going collect south of us. It’s going to end up getting blown toward our homes. In Columbia Village a lot of times you’ll see in the morning the brown cloud rise over Boise and then move slowly southward. They air quality is already poor enough. We don’t need to be adding to it. The other concern that we had was that Idaho Power hasn’t committed to buying the power that Mountain View Power is going to generate. What is going to guarantee that the increase in pollution levels in our valley and the increase in visual pollution from the Power Plant, as people come into the valley and Boise, what’s going to guarantee that that is actually going to bring benefits to Boise as opposed to being sold to other entities? Originally when this area was zoned, it was zone for industrial growth because it was on the edge of city. The City has now expanded and it’s growing rapidly. One of the concerns that we have is that as the area grows, less residential people will be inclined to grow and build out here if there is a power plan located nearby.

Gerhard Svahn (5326 S. Wagonmaster Pl./Boise/83716) – I haven’t heard the noise pollution addressed. I agree with the other pollution issues and have a concern over also.

Mr. Looper – There was the focus and concern about air quality. I think we provided the numbers. I think you got the answers from Kevin. It is the worst case analysis of any day, any hour, 1-hour, 8-hours, 24-hour, annual analysis that we show in those contours. The worst case analysis shows that your 1/10th thousands in many cases with the type ambient air quality that you are breathing right now in the valley. The person who has a gas fired furnace in his home is someplace around 10,000 times the level of pollution that you are going to have from this power plant. Walking behind a lawnmower, a 20 minute ride in your car has 8 parts per million carbon monoxide inside your car which is a thousand times greater than the carbon monoxide that comes from the power plant. The concern is generated by ground-based auto emissions, that’s where the pollution comes from. Your neighbor idling his car, the ambient air quality in your
house, those are the types of things that are significant. The power plant is a very clean burning source and I think the analysis pretty much stands on its own. We believe we’ve address that concern. There were a couple of questions regarding landscaping and the specifics on the lighting. This power plant has down lighting so it there would be no glare from the power plant. The landscaping and berm will be before the Design Review Committee and we’re certainly open to the types of concepts that you want to see in the industrial park, which probably hasn’t been really developed yet. We do a lot of things with paint actually where we paint the different tones, as the stack goes up, to blend into the skyline. But, it is a power plant. It looks like a power plant. We didn’t go into the noise because we talked a lot about it. This plant is very quiet. At Mountain Home it measures 52 decibels which is below residential noise levels at the juvenile center which is 400 ft. away. There have been no complaints on noise. We put silencing in the stacks so it’s way below the type of noise standards that normally set for industrial parks.

Commissioner Fadness – Could you give us some edification on why these plants aren’t built further out in even more remote areas? Is it because of location to transmission, gas and water lines? Is it due to just pure convenience for employees? One gentleman testified that if it were just a few miles down it would reduce, by many times over, the emissions.

Mr. Looper – Emissions isn’t just a distance issue. On any given day the wind could be blowing one way and the highest concentration could be in another location just by the way the downdrafts work in the valley. Just moving a power plant from point to point, we all think it’s great that we have coal plants in Wyoming and Nevada and we’re able to import the coal. I don’t think the people down there think it’s so great right now. It’s a “not in my back yard” syndrome. Even to consider Hells Canyon in Idaho is a little bit on the border. Our power comes from outside this state. It’s not as reliable as having something nearby where the load center, in this case the Boise Bench, is, so it’s a reliability issue, it’s an issue of access, it’s an issue of having access to natural gas, to high voltage transmission, parts, maintenance, it’s the entire package. In particular, one unique feature that we want to offer with this plant is the black start capability which only comes from the Hells Canyon Complex now which is over 100 miles away. The grid goes down. How do you bring that grid back up? It comes from a generating plant. How close is that generating plant to the load center? The nearest plant that we have is actually the Hells Canyon Complex to bring the grid up. We’ve been had talks with Micron about their industrial security being in a location where they are so far separated from where the actual generation is. They’ve considered putting generation in their back yard to generate their own load. We’ve listened to industry. We’ve listened to what’s needed. We think this is the right solution at the right time for Boise and the Treasure Valley.

Commissioner Fadness – Whereas Plant 1 is a peaking plant, is it true that the 2nd plant could be operating 24-7?

Mr. Looper – It could be operating 24-7. As we heard in the public hearing there was a lot of discussion of why don’t we even go lower, why aren’t our k Knox emissions 5 instead of 10. The
answer to that is as you start to go to a 24-7 plant it becomes more of a combined cycle plant where you are able to reheat and use that and reduce the temperature in the stack. By doing that you’re able to burn cleaner. So in fact, what normally happens, even when we go to a 24-7 operation, you actually emit less emissions. You are going to emit them longer, but the actual rate of emissions actually is further reduced so there will be another jump down to go a 24-7 plant in terms of the rate of emissions.

Commissioner Brunelle – This is clearly a proposal that your firm has, you’re competing with other firms. What if you end up getting the conditional use permit, the permit from DEQ, etc. but Idaho Power decides to go elsewhere to fill the load? Would you still plan on constructing this and exporting the electricity?

Mr. Looper – If we can’t sell that power locally, it diminishes the value and the location of the plant. Really the likely buyer here is Idaho Power or another local user. We really need to be successful in selling that plant to Idaho Power or another user in this area for us to build this project. We will continue to compete in those venues to try and do that.

Commissioner Brunelle – So if they said no, would you build it?

Mr. Looper – If they said no, we would not be able to sell the power, for Plant #1 we are talking in particular, the peaking plan, we would not be able to sell that power so we would not be building this plant.

Commissioner Brunelle – The reason that I brought it up was much of what the staff report that I think forms a basis of support for the project in part in our City Comprehensive Plan it does talk about the City working with Idaho Power to insure existing electrical facilities are protected and adequate, safe, orderly supply of electricity. But if this turns out to be a plant that lights the casinos in Las Vegas.

Mr. Looper – The problem that we have is what you heard from other people testifying. We don’t even have the ability to get our power out. Not only can’t we get the power in, but we can’t get it out. The electrons will be used right here in the load center.

Commissioner Brunelle – True, but I’m also away, in my day job, that there’s a lot of work going on with transmission facilities west-wide. There are some major Federal studies going on so it won’t be that way forever. So what would you think about a condition that would be added that would say that this is valid if Idaho Power selects you?

Mr. Looper – I think we would narrow our competitiveness a little bit. If you are worried about the electrons going out of the state, which really can’t happen, we really don’t want to be limited to just the Idaho Power market. There could be a closed-in sale for example with in industrial user.
Commissioner Brunelle – Like Micron?

Mr. Looper – Could be.

Commissioner Brunelle – But something that would limit it to the city, something more consistent with the City’s Comprehensive Plan.

Mr. Looper – Something more consistent with the City, the Treasure Valley which is where most of the load is.

Commissioner Brunelle – Plant #2, your letter that’s in the record appears to make the pledge that Plant #1 would use this new technology from Seemans Corporation. You’re silent on Plant #2 and I was just wondering if you could explain why.

Mr. Looper – We just haven’t selected the unit size, the actual particular unit. There are different model numbers, different variations and we just haven’t selected that unit right now because we haven’t fixed the size of that plant.

Commissioner Brunelle – But it would be a Seemans plant?

Mr. Looper – Most likely it will be a Seemans.

Commissioner Brunelle – So what would be your comments on Mr. Hall’s testimony? I believe he was talking about condition #5 that’s been drafted here by staff.

Mr. Looper – Something about the best event that we would use, the best available control technology.

Commissioner Brunelle – His question was whether it should meet or exceed the same pollution control or the same design as plant #1.

Mr. Looper – I think that’s a fair statement. We’d be willing to do that.

Commissioner Fadness – What would Mountain View’s reaction be to one of the proposals that was suggested that since we have so little details on Plant #2 that there be a separate conditional use permit provided and that there be separate hearings on Plant #2?

Mr. Looper – We were encouraged to take the approach of what do you think you are going to do with the ultimate build out of this site by the staff. We didn’t want to propose a plant and then come back in here two years later and propose another plant and say we had this other plant in mind the whole time, so we did the best that we could to articulate the details by limiting the size, committing to the emissions, showing you a footprint, showing you where it would be located and addressing all the environmental impacts of that plant for Plant #2. That’s why we
did that and we’d like to stay that course and get the conditional use permit so we can move forward with that concept.

Commissioner Ellsworth – One gentleman brought up the idea of an off-set plan. Was that considered at all, emissions trading, off-set?

Mr. Looper – There is an active emissions trading program in California and other non-attainment air sheds, but we aren’t non-attainment here. There’s probably a way to go about, either on a volunteer basis to create such a program, but we’re not aware that there’s any banked pollution credits in Idaho and there’s no formalized program for such. The concept that he discussed is one that’s in use all over the country, just not here.

Commissioner Fadness – Idaho Power currently has a proposal that has been partially approved for SO2 trading allowances. How the revenues from those trading allowances will be treated has still yet to be approved, but Idaho Power is currently engaged in a sulfur dioxide emissions trading program.

COMMISSIONER VAN OCKER – I WILL MAKE A MOTION TO APPROVE CUP05-00126 WITH THE FOLLOWING MODIFICATIONS TO SITE SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL STARTING WITH CONDITION #4 TO ADD THE WORD ‘INSTALLED’ PRIOR TO ‘70% CAPACITY.’ CONDITION #5 TO ADD THE SENTENCE: “POWER PLANT #2 SHALL MEET OR EXCEED THE REQUIREMENTS OF PLANT #1.” CONDITION #11A I WOULD LIKE TO WRITE A SPECIAL NOTE TO OUR DESIGN REVIEW COMMITTEE TO PROVIDE THE NECESSARY LANDSCAPING AND BERMING TO MITIGATE IMPACTS FOR FUTURE DEVELOPMENT. SITE SPECIFIC CONDITION #11 I’D LIKE TO ADD ‘F’ WHICH WOULD ADDRESS EXTERIOR LIGHTING AND COMPATIBILITY WITH FUTURE DEVELOPMENT TO ALSO BE REVIEWED BY OUR DESIGN REVIEW COMMITTEE. ALL THE OTHER CONDITIONS WOULD REMAIN INTACT ALONG WITH THE FACTS AND FINDINGS.

COMMISSIONER PAVELEK SECONDED THE MOTION.

Commissioner Cooper – Would the maker of the motion consider striking conditions 34 and 35 since apparently they were replaced by condition #8?

Commissioner Van Ocker – Yes.

Commissioner Pavelek – The seconder will concur. I think in listening to a lot of the public testimony I’m not sure whether all members of the public are aware of what’s in the conditions of approval. There is a great deal of emphasis specifically on further review of the air quality issues, the water quality issues and all the other impacts that this plant potentially could have and that in order for this plant to move ahead, each one of these conditions and part of that review will in fact have to be met and approvals given by DEQ and the other corresponding agencies
including the Airport. While we look at this project in terms of a land use project, all projects that run through this have to meet all the State statutes in terms of their impacts, both on the local and the larger environment. This Commission, while it has certain limitations, routinely refers, for approval, the appropriate jurisdiction to look at the particular engineering or environmental issues. I would encourage those that have raised questions about this application to look at these. There is also public input that is asked for by DEQ from the public of their concerns and they will take that into account in terms of looking at the specifics. I think there were some questions that were included in the refinement to the conditions of approval on the actual visual impacts and that also entails a public hearing. The public has a right and opportunity to make due presentations. I do think thank the southwest neighborhood for specifically looking at the conditions of approval and making recommendations. I think they were in keeping with the intent, however they do clarify what the applicant will have to do to meet, in terms of his final application, and how the project will in fact be eliminated. I think there’s some larger issues which were interesting and probably do require input at the State level. I think the pollution offsets is an interesting one. It seems to be a growing method of dealing with how we maintain air quality or improve it. I know it’s been formalized in other jurisdictions and probably it’s timely that the State of Idaho looks at it. I did note in part of the information given to us that there have been improvements, both locally and nationally, that take in strategies for offsets or other means of reductions or pieces that we all can support and try to encourage. I think in terms of transmission of line, I think that is something that in the future will have impact on where we get our power from and the inner relationship that we’re going to have between our local and regional power sources. The bias I guess that I do have, and it seems to be consistent with this, is if we have a power need we should do the best job at seeing whether we can in fact accommodate within our general location as long as it doesn’t have dire influence on our local environment. But it makes no sense to simply shove the problem into Nevada or Montana and be out of our sight even though we are users of that. From what I’ve read, the information that’s in front of us would in fact see that the impact of this plant can fit without our Treasure Valley. I think we all recognize that air pollution is the biggest potential limiting factor of our growth. In reviewing the information, which I really largely leave to DEQ to document and verify, but it seems like it is within allowable limits/impacts on our local environment. I do look at the smog that is created virtually on a daily basis. I happen to live in a location where I get to see it and I do have great concerns of the long-term ability for us to retain good clean air so I don’t take this in a light sense in terms of the obligation that I feel for supporting this motion. But I will look to what happens in DEQ. The project will not go ahead unless it meets their criteria and a I do encourage everyone here that has a real concern for the validity of the information provided, that it be reviewed properly at DEQ’s level. I think everyone for their presentation. In many cases it’s an emotional effort to come here and to be concerned about the basic essentials of life like clean air and so I do thank every one of you for coming and making your representations.

Commissioner Brunelle – Commissioner Pavelek made a comment upon the point that in a growing area where our need for electricity continues to increase, at some point you need to help try to set the terms upon which the demand that we have for the product, we have some control. In that regard I can support the proposal for Plant #1, especially with the pledge on the part of the
applicant that they made with the Idaho Conservation League and others to install the equipment that would cut the amount of emissions by 50%. Where I have to depart though with the motion and oppose it is with Plant #2. I just think that what we are dealing with here is asking for approval of something that just hasn’t been well enough defined in and is still at too conceptual a stage to give our approval to. To draw an analogy it seems like what we are being presented with is a development proposal for 2 large apartment complexes one of which we looked at the traffic impacts. We modeled it. The second we know it will a little bit smaller, but we don’t know what the cumulative affect of these two plants will be together with the added affect of the ambient air conditions in this valley which have been growing worse over the years. I can’t go along with this motion because of I think we are providing an approval to the second plant which we just haven’t established a record that I think is necessary. I don’t know what to make of the Airport Staff’s objection to the proposal. There’s a lengthy letter from Cheryl Robertson that’s in the record that we received tonight. We didn’t have any public testimony on it. I don’t know what to make of that, whether there are issues or there really is a problem with an impact of this proposal on the Municipal Airport. In the comments that we received from DEQ, there was some discussion about the air quality standards for PM2.5 for particulate matters. They make reference to, in December 20, 2005, EPA proposed a revision to the PM2.5 standards which become much more stringent and if I’m reading this correct, it appears that our valley is actually above what this proposed standard would be if it ends up being promulgated in the final rule. This gives me some concern that we would be going ahead and approving both plants, especially when the second one is something that hasn’t quite been defined. It’s an interesting concept that you would use a gas plant to firm up wind energy in order to package up wind energy which I think would be a great idea, make it much more attractive to Idaho Power. The downside is that the gas plant would operate probably more often when there isn’t wind. That brings up more air quality issues in my mind.

Commissioner Van Ocker – I was also hesitant with Plant #2. I think the reason why I structured my motion like I did is site specific condition #2 does in fact limit the size of that facility, the construction of that facility. By adding my sentence onto condition #5 where that facility needed to meet or exceed the requirements of Plant #1, I felt as though we were protecting ourselves against any potential impacts that even though Plant #2 hasn’t been totally designed yet, I think they have a good enough idea of where that’s heading. With the data that was given to us from EPA’s Air Modeling System, it illustrated the path of emissions. Those numbers, in my opinion and my understanding of the documents that were provided to us, were so extremely low that even when bringing Plant #2 online, even if it is exactly double, we’re still so far below what would be considered something that EPA would be concerned about. They still have to meet EPA’s requirements regardless of what we do from a land use issue, which I do feel the land use is appropriate, we do overstep that with this application more than we have obviously a lot of other applications. We’re moving into territory that we very rarely, if ever, deal with on this Commission and that is why we demanded to have extra information and documentation provided to us. That’s why I didn’t want to completely make Plant #2 have to come back before this Commission because I do respect what they have done. They brought it to us initially rather than later. I do think we do have the protection in our conditions of approval.
Commissioner Pavelek – The thing that I would add as far as the Airport is concerned, all development within the Airport Influence Area, such as this plant, would require a navigation easement which is a specific easement for a set project. The way I read the Airport’s letter is that that is part of the process that they will have go through and an easement will in fact either be issued or won’t based on the specifics of this. Any of the industrial lands out there in fact will have to go through a very similar application process. Reading their letter I believe that’s what they are looking for.

Commissioner Wilson – That is why I asked the question of the Airport to see if they had any further objections because I was concerned that perhaps there were some air quality objections or something else that was going on beyond just the FAA regulations. But, in the conditions of approval they have to comply with the FAA regulations and if they aren’t able to get that permit, then these won’t be built. Since that’s the basis of the Airport’s objection and that’s something that’s taken care of routinely through a permitting process, I think that issue has taken care of itself. I’m also of two minds about approving this. One is that I grew up in Pocatello which has extreme air pollution issues. It’s like every kid I went to school with had asthma or something going on as a result of the phosphate plants just outside of town. Those were sighted in such a way that they were over the county line. Bannock County didn’t have any jurisdiction over them. Didn’t have any input into the decision and the City of Pocatello really received the brunt of that pollution. I think one of the things that we do have that’s working in our favor here and that is helping me to support the motion is that the company has been so willing to work with the Idaho Conservation League and the City to use the best available technology. The first time I saw this application I have to say I was dead set against it. It appeared to me that they were trying to come in with a small plant that would be a small enough generator that it wasn’t going to attract notice from DEQ and that they wouldn’t have to apply the best technology so they weren’t going to do it, but I’m very pleased that they’ve come back and agreed to apply the best technology that can to this and that is what’s driving me to support the motion. Another factor is that we have always been really fortunate in Idaho that most of our power has come from somewhere else. If you spend any time in the 4-corners region and see the coal-fired power plants down there it really makes you appreciate that we don’t have one of those here. After so many years of being supported by that power outside, I think it’s about time that we have to take some responsibility for our own power production and this is where everybody is moving, this is where the energy is being used. I think that for the long-term safety of the grid we do need to have more distributed sources of power. For those couple of reasons I’m going to be supporting the motion even though personally when I first looked at this application when it came before us I was absolutely, completely dead set against it.

Commissioner Ellsworth – I think one of the other things that has to happen, at least to get it on the public record and ICL points this out in the excellent letter that they wrote on the 23rd, there’s nothing to prevent Idaho Power or these developers from stepping outside of our purview and developing another one of these next year or two years down the road, doubling the size of the Mountain Home Plant, which is in our air shed, or going down to Caldwell or Ontario. We’re
going to be affected by that air as well and they could just as easily build one without the best technology so I think that we need to get Idaho Power to set up and level the playing field so that if another developer comes in they’ve got to use the best technology available also and that just makes sure that the air that we breath is the best air that we can breath even though people move here and we need the power.

Commissioner Fadness – I would like to commend all those who attended tonight for being respectful. It was a good hearing. I want to commend Mountain View for going the extra mile and beyond as far as offering a proposal that is quite a bit better than the previous one and quite a bit better than a lot of others that people deal with in other areas of the country. I do want to comment though that for those of you who may not be happy with the decision that rendered tonight, I guess I would say that I believe that my fellow commissioners are intelligent and very well intentioned people that I’m not so sure that we should be the body that makes these decisions primarily because pollutants don’t recognize the borders for which this Commission has authority. We don’t have authority in Elmore County or Boise County or either county to the south of us so I think there needs some sort of statewide sighting authority where you have people with even more expertise than my fellow commissioners on some of these issues. These are extremely complex issues, especially when you get into pollutants and their numbers.

Commissioner Wilson offered a perfect example of plants that are built in Power County that affect Bannock County even more than they do the county in which they are located. Of course those plants are far more polluting on a much larger scale than this that’s being proposed, but I’m not so sure this is the type of decision is one that should be made just by city and county planning. I think they should certainly be represented on sighting boards, but we need state-wide sighting authority that looks at impacts, region and even state-wide, especially with proposals we have on-line for coal plant in the Jerome area. We’re going to see more of these independent plants. I think with the information we have before us, we’ll be making the best decision possible and I think the Commissioners have done everything they can to consider your views as well as the views of the applicant in this proposal.

Commissioner Wilson – In the last session of the State Legislature they did take up a proposal to put together a sighting committee state-wide and the Legislators decided not to do that. I really wish they would have for exactly the same reasons that Commissioner Fadness has stated. I would recommend that people give their representative a call and them to reconsider that and explain why we need these things.

Commissioner Fadness – There was in interim that did oppose it, however I think that some supporters are going to try and propose it this session.

MOTION TO APPROVE CARRED WITH COMMISSIONER BRUNELLE VOTING AGAINST AND COMMISSIONER MCLEAN ABSTAINING.
Planning & Zoning Commission Minutes of December 5, 2005 – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of December 12, 2005 – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_______________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
CAR05-00050/Boise City
AMEND THE BOISE AREA OF IMPACT AGREEMENT TO: AMEND THE BOISE COMPREHENSIVE PLAN TO REFLECT SPECIFIC POLICIES TO GOVERN THE NEWLY ADDED AREA; AND TO AMEND THE BOISE COMPREHENSIVE PLAN LAND USE MAP TO EXTEND BEYOND THE AREA OF IMPACT TO THE EAST ALONG THE NORTH SIDE OF HIGHWAY 21 AND NORTH TO THE IDAHO FISH & GAME WILDLIFE MANAGEMENT AREA.

Kathleen Lacey – This is the City’s request to receive a recommendation from the City’s Planning & Zoning Commission as to whether or not make a recommendation to the Boise City Council to proceed with re-negotiations of the City’s Area of Impact. This not only to re-negotiation whether to recommend re-negotiations of the Area of Impact, but if the area is added to the Area of Impact should the Boise City Comprehensive Plan and Boise City Land Use Map be amended to reflect specific policies to govern the newly amended area. Idaho State Code, Section 67-65-26 lays out very clearly the requirements to expand an Area of Impact and the negotiations that are required. There are three requirements in particular. You must address whether or not the area requested for amendment or for re-negotiation meets the trade area criteria, define the geographic area and why that was selected, that particular area of the boundaries was selected and also what is the possibility of annexation in the future of that particular area. Staff will address all of those issues. In addition, Ada County requested 17 criteria be addressed from the City as a particular portion of our starting negotiation process with them for the Area of Impact. We will address those briefly. Those are included in the Area of Impact Analysis which was out on the table. If you need additional copies of that please let us know by signing up and we can get those to you via e-mail. I’d like to start with the State’s findings in regard to trade area. Boise City feels that we have very clearly defined the area under consideration know as Hammer Flats. Boise is the regional government trade and commerce center of Idaho.
We are the only city within 14 miles that could possibly be considered a trade area. We provide employment, cultural activities, recreation, government services all within our area. We draw thousands and thousands of people from throughout the Treasure Valley and from Eastern Oregon to work at some of our site locations including Micron which employs 10,000 people. We have our downtown area 7 miles away. We have hospital services 7 miles away and I think those are the main components in defining our trade area. There’s no other community. There’s no other city within a distance at all that could possibly serve this area in the ways that Boise City could serve it or serve it at all. We’re next asked to address the geographic features. We’ve got three different designations. According to the Boise City Foothills Plan, a plan that was adopted a 15-year period and finally adopted in 1997, the “sloped protection area” are slopes above 25%. The buildable area is below 25% and there is area designated as open space. The black cliffs form the natural boundary as does the Boise River for the south and southwestern boundary. Those are very natural boundaries for defining the geographic area. Should the area develop occur in that area, the owners would be required to annex to the City bringing the annexation line out to our current Area of Impact. Therefore if this area is added, the Area of Impact would be adjacent to Boise City limits once annexation occurs should development occur on those private lands. We next address the availability of services in this area. The Boise City Sewer District is in very close proximity of the site, about 1.5 miles away in terms of where the sewer lines currently exist. They could expand their service plan very easily to provide service for the Hammer Flat area. Fire and emergency services are located approximately 3.2 miles away or 3.4 miles away once the Harris Ranch Station is developed and staffed. Service will be about 1.5 miles away. The City feels we have made our case that fire and emergency services could easily be provided to this area should it be developed and come into the City’s Area of Impact or be annexed. Boise City Parks and Recreation was asked to comment on this application. They have assured us that they have significant parks to serve the area including the Alta Harris Park and Harris Ranch. The Maryanne Williams Park, which has yet to be developed, was recently donated to the City and the Greenbelt as well as a neighborhood park have yet to be developed. Boise Police will be able to provide services. Boise City School District 25 has capacity and will serve the area should it be necessary. The land indicated on the map in orange is proposed for potential development by Skyline LLC., which is the name for three different entities potentially cooperating in that development. This area is a subdivision in Ada County known as an illegal subdivision because it was not appropriately zoned and there can be no further building upon that land in its current status. Regarding the topography of the land, where is a great deal that is known is known in our nomenclature under the Foothills Policy Plan as buildable, there are some areas that are not but a good portion of the Skyline, LLC. land is buildable. There is elk and deer area habitat in the area. It also a critical wildlife habitat area essential to both the wintering and other seasonal occupation of the area by wildlife. Boise City definitely feels we have met all the State criteria for inclusion into the Area of Impact and we have met the 17 criteria required by Ada County for inclusion in our negotiation process to extend our Area of Impact.
Fred Mack (Attorney/Holland & Heart/Representing the Skyline Development, LLC.) – We are in a difficult situation here today. We are here to express to you our concern as to what’s going on with this application. Today, we submitted a 17-page single-spaced memorandum of why this application was improper. I apologize about the delay. The reason for that was we did not get the final documents until Tuesday. We worked around the clock to get this information to you. From a history perspective, the City staff prepared an application about a month and a half ago. They submitted it, and then just prior to submission of which we commented on, they withdrew it. I’m not sure you folks have seen that. They’ve now come up with a second version, and we have submitted that. I think it is terribly important that this group take the time to go back and look what the City did in the before, and get through tonight’s documentation we have given to you, because it will tell you the history of what is happening here. I have put this on the overhead, and I’m handing this out. We are in the difficult position that we believe the City staff has prejudged this decision. Obviously, where in a normal circumstance you would be here and try to have public input to make a decision. If you start back over a year ago and see what actions the City has taken, you will see that the City has predetermined that they want to kill this development. I have a memo from Jane Suggs that I have on the screen here, and in pertinent part that says the City will do nothing to provide services to this property, the City will do everything they can to oppose the project, and will do everything to prevent the County from approving the project. That was by Hal Simmons, the head of the Planning and Zoning Commission. We’ve also got e-mails internally from Boise City that we got under public record request to substantiate, from the Mayor on down, the mission is to kill this project. The problem with predetermining the outcome of this problem is our due process rights are impaired, it’s improper, and at the very worst it’s illegal. Secondly, if you get to the application after you’ve reviewed everything, what this is, is an overlay of governmental regulation on the Skyline property. Eighty-five percent of the fee ground that this is covering is Skyline’s property. The City staff is attempting to control and limit development, which they couldn’t get done directly because they didn’t have the money to buy it; they are trying to do it through this process. Legally, that is reverse spot zoning. What that says is if you reverse spot zone, and you put different rules and regulations against one piece of property that you’re not doing to others, it’s unconstitutional, it’s illegal, and it will be reversed. Look at this map. If you look at the map of where the proposed, down there in the bottom yellow where we are, look where Harris Ranch is. Two miles from where we are, Harris Ranch’s development was approved by the City. It is larger, it is closer to the wildlife management area, and it would have a greater impact than we are having. The City passed that hands down. Now, they’re trying to stop us through spot zoning. We’re telling you please don’t let that occur, because you’re just going to buy into to having to come back through the judicial process. Secondly, what is this application doing to private property rights? To argue that Skyline’s property is not impacted is ridiculous. Even in the application that the City has before you, they say, under the County regulations we could do 1,200 to 1,400 houses, they’re suggesting maybe 300. Are they impacting Skyline? Absolutely! Did they do a constitutional analysis under Title 67 about the effect on the private property rights? No! They said, “Oh, well we’re not totally taking the property, so you can use it a little bit, so don’t worry.” That’s not the test.
The test legally is, you have to determine as part of this application, for you folks to review what economic impact this proposed regulation has on Skyline. It obviously has one. No analysis on that. Secondly, the law requires that if the regulation interferes with Skyline’s reasonable investment backed expectations on the use of that, they have to make an analysis. There is no analysis. So where we are today is we’re in a box. We’re in a box because the City is asking you to rubber stamp or approve an application that directly impacts us. There is no analysis. It’s flawed. We’ve given you 17 pages of materials to talk to you about why it’s constitutionally and statutorily improper, and is a sloppy docket, and I’m sorry to say that, but it is. I’m not telling you that you can’t do this or you shouldn’t do it. All I’m asking is make the City keep to the same standard you and I would have if we came before this group. Go look at the materials we submitted, review the history, make them do it right, and don’t rubber stamp this. Thank you.

Nicole Snyder (Attorney Representing Cigna Investments) – I appreciate the opportunity to speak to you tonight. I’ll be supplementing the comments made by Fred Mack on behalf of Skyline. I’d like to address three issues tonight, and they deal with the more technical aspects and legal deficiencies of the City’s application. First, the City has no jurisdiction to adopt text amendments to the Foothills policy plan at this time. Second, the City’s plan to extend its policies to apply to federal land is unconstitutional. Then finally, the City’s proposal and staff’s recommendation are based on a number of inconsistencies and flawed assumptions. Let me start at the top. Until the City re-negotiates it’s Area of Impact with the county, the City has no jurisdiction to adopt text amendments to the Foothills policy plan at this time. As a result, the actions requested by the City’s application are unconstitutional. In order to extent the City’s Area of Impact, the City is required to re-negotiate with Ada County. Presumably, this re-negotiation will happen at a future date following a recommendation by this Commission and adoption by the City Council. The problem with the City’s current application is that it requests a simultaneous action that should actually be a two-step process. First, it requests that the City’s jurisdiction be extended to include the new area, but second it also requests text amendments to the Foothills Policy Plan to apply to the new area. The problem with the adopting text amendments to the Foothills Policy Plan at this time, before the re-negotiation with Ada County, is that the City lacks jurisdiction over the area to which the new Foothills Policy Plan amendments are intended to apply. This is a clear violation of Idaho law. We request that the City follow the normal statutory procedures. You should first consider a recommendation to extend the Area of Impact. Then you should approach the County and re-negotiate the Area of Impact. Finally, at a later date, only then would it be legally permissible for the City to adopt amendments to the Foothills Policy Plan that are intended to apply to this area. The second issue I’d like to address is the City’s plan to extend its policies to apply to federal land. Again, this is also unconstitutional. Sixteen percent of the subject area is owned by the federal government; however, the supremacy clause of the federal constitution prevents a local governing entity such as the City from regulating activities on federal lands. Our written comments to the Commission document the Idaho and United States Supreme Court decisions that make this rule clear. Accordingly, we request that City’s application be revised to exclude federal land. Otherwise, it is simply a matter of time until a court invalidates the City’s proposal.
Finally, we want to address the fact that there are numerous flawed assumptions and internal inconsistencies in the staff report, which must be corrected prior to be any recommendation on this application. We have detailed these, perhaps painfully, in three letters provided to the Commission on Skyline’s behalf, which are now part of this record. We strongly urge this Commission to spend time considering these flawed assertions before making a recommendation to the Council. Some of these assertions are serious enough to render any recommendation by the Commission based on these misstatements an unconstitutionally arbitrary and capricious government act. I’d like to give you just a few quick examples of this. First of all, the staff report complains that Skyline’s development would burden City services, but it ignores that Skyline’s development is designed to be self-contained. The map that was just shown by Ms. Lacey, shows that we have the critical deer habitat area, puts it up there, and acts like that is all Skyline’s property; it’s not. Of the 200 triangles that show the critical deer habitat, only six of those fall on Skyline’s property. Of those six triangles, all are located in areas that Skyline intends to dedicate to open space. In sum, the legal deficiencies with the City’s application are material and the adoption by the City Council of the proposed amendments without modification virtually assures that a court will later invalidate these amendments. Moreover, to date, we believe the City has failed to show that it will be more capable than the County in providing sound planning and governing policies for this property. For these reasons, we urge the city to amend its application, make sure these amendments follow Idaho law, and make any recommendation on this matter to the City Council only with proper planning. Thank you.

Tony Jones (Representing Save the Plateau/9884 East Highway 21/Boise, Idaho) - I come to you tonight in two capacities: First, I come to you as one of the residents whose property is within the affected area. I live at the extreme East End of Hammer Flat. Second, I come to you as a representative of the group called SavethePlateau.org. For those of you who are unfamiliar with this group, we formed about a year ago for this express purpose. We now have about 100 active members, our newsletter goes out to in excess of 450 people a month, and a petition that we sponsored asking the Ada County Commissioners to deny extensive development for this area has now been signed by in excess of 1,850 people. Clearly, it is a topic that is generating some interest. I have read the staff report in some detail and agree with most of their findings of fact. For instance, staff’s conclusion that Hammer Flat is within the Boise City trade area is simply irrefutable. There is simply no other option. As for Boise’s ability to serve Hammer Flat with services such as fire, police, schools and so forth, Boise City has successfully extended similar services to other areas in the valley before, and I do not doubt their ability to do so in this case. I would like to comment in a bit more detail, however, about the number of overlapping plans, codes, and so forth dealing with wildlife and sensitive nature of the habitat in this area.

1) Hammer Flat has long been recognized as a sensitive wildlife area. On the entire North boundary of the entire area, the Idaho Department of Fish and Game maintains the Boise Wildlife Management Area. Please remember that hunting and fishing generated revenues are a major component of the Idaho economy, and to the extent you allow critical habitat to be destroyed you are impacting that very same hunting and fishing bases for much of the Idaho economy. So, if you mess with one, your gonna be messing with the other. This has very real impacts on the Idaho State economy.
2) The portion of the Idaho State code enabling cities and counties to adopt comprehensive plans specifically calls for those plans to protect wildlife habitat.

3) The Boise Foothills Policy Plan, recognizes that Hammer Flat is located within the most environmentally significant area in the entire Boise front.

This is, to an extent, the epicenter of it all. I could read any number of the codes for this situation, but one example from the Foothills Policy Plan would serve as an example. Goal One, Objective One from the land use general development states, “The location of development will avoid environmentally sensitive areas, and it shall protect wildlife and habitat.” Those are pretty strong words, and those words are repeated in a number of sections of the same code, other parts of the Boise City Comprehensive Plan, as well as similarly specific language in the Ada County Comprehensive Plan. These plans were all put in place at great cost, and with substantial amounts of public input. The results they call for are results the people of Boise and Ada County both expect and desire. Proof of this last statement can be found in the passage of the Foothills levy in May of 2001. That levy was passed by Boise residents by a 60% margin. That is a pretty strong statement of what the people of this area expect in the way of protection for wildlife habitat in the Foothills. The trouble is that, at least in Save the Plateau’s perception, the Ada County government seems perfectly willing, even eager, to approve the development destined to decimate Hammer Flat wildlife’s carrying potential and adversely impact the neighboring wildlife management area. In my view, if the City is to fulfill the wishes that the voters of this area expressed when they passed the Foothills Levy in 2001, wishes that remain as strong today as they did then, the City's only choice is to extend its jurisdiction in this area and take control of development. For both myself and for Savetheplateau.org, I ask you to please approve this measure and to extend Boise City’s Area of Impact over the Hammer Flat area. Clearly, this is a very sensitive issue, what is or what isn’t sensitive wildlife. To that end, I have prepared a video of what you would see if you were up there on an appropriate winter day. So if I could, I would like to show that.

Tony Shay (Representing the Shoshone-Bannock tribes/P.O. Box 306/Fort Hall, Idaho/83203.

Tony Shay – Okay, what I want to do here is to present a position paper of the Shoshone–Bannock tribes on the Hammer Flats proposed development in Boise, Idaho, this January 2006. Following that, I’d also like to present my testimony individually. Our people call the Boise Valley Area, “Cewokey”, or “place with lots of willows”. This area is the aboriginal homelands of the Shoshone–Bannock and Paiute people. For thousands of years prior to the white settlement of the Boise valley area, our grandfathers and grandmothers lived and died in this area. We hunted, fished, prayed, and raised our families on the rivers and streams of the Boise Valley in subsisting on the plants, the animals, and the sacred waters the rivers, the streams and the springs. The Boise River was an area that we lived in and is very important to the Shoshone–Bannock tribes. Conflicts between the Indians and the white settlers were common in the 1800’s, which resulted in various bands of the Shoshone–Bannock and Paiutes being confined to a stockade along the Boise River near what is now the Lucky Peak, the Arrow Rock and Anderson Ranch areas. During their confinement, our peoples struggled to survive and
ultimately died there. Our relatives who survived were forcibly removed from this area by the United States Calvary to various reservations including the Fort Hall Indian Reservation in southeastern Idaho, the Duck Valley Indian Reservation in southwestern Idaho and northern Nevada, the Burns Reservation in southeastern Oregon, and the Fort McDermitt Reservation in Nevada. The Foothills and mountains contain the remains of our ancestors. Our oral traditions tell us that these areas are not to be disturbed. Our relatives spoke of camping near the hot springs, which is a place of healing, and are sacred to us. They also spoke about our grandparents who were placed to rest in the rocks and cliffs above the river. Our oral history of these events are further substantiated in the Castle Rock area where we have an Idaho Tri-weekly Statesman newspaper article dated January 22nd, 1893, that documents that area as having Indian graves.

To satisfy the settlers, miners, and ranchers for the rich resources present in the Boise Valley area, several efforts to enforce the local Indians to sign treaties agreeing to move to reservations thus opening up the lands to non-Indians. These treaties include the Bruneau, Ruby Valley, and the Boise Valley treaties. Even though the head men of Shoshone–Bannock and Paiutes signed those treaties in good faith, the United States failed to ratify them. Thus, their aboriginal rights were never conceded. Later in 1868, the United States government did sign and ratify a solemn peace treaty with the various bands of the Shoshone–Bannock people. The Fort Bridger Treaty of 1868 reserved the tribe’s right to hunt, fish, and gather on all unoccupied lands of the United States. Our people continue to exercise those rights, and work to ensure that we continue to have water, wildlife, plants, and habitat for those resources. Recently, the Shoshone–Bannock tribes were notified by a third party of this proposed development in the Hammer Flat area. One thousand four hundred homes are being proposed to be built with additional business and associated infrastructure on 700 acres. This development, if allowed to occur, would mean the physical remains of our ancestors would be disturbed. It would also result in additional reduction of ecological diversity, as this mesa area is habitat for wildlife including threatened and endangered species. The Shoshone–Bannock tribes have admittedly opposed the development of the Castle Rock/Eagle Rock area, and have testified numerous times before Boise City Council against the impacts which include excavation of any discovered human remains. The tribes have also opposed the loss of treaty resources including wildlife habitat. At that time, the City Council placed certain conditions on the developer, which required that they directly consult with the affected tribes. As a part of this new development, which is in the same general area, we ask that the developer directly contact and consult with the affective tribes. To date, no formal contact between the Shoshone–Bannock tribes and the developer has been made. The Castle Rock development raised issues regarding the potential discovery of burials. The tribes pursued that under the Idaho State laws and burial acts regarding grave sight and burial acts. Those laws, protecting all grave sights do not differentiate between Indian and non-Indians and, again, we raise this compliance with State law. To date we have not been informed of any details nor of any results of cultural surveys conducted. The Shoshone–Bannock tribes question if this area can support this level of land development without compromising the integrity of the natural and cultural resources of the area. Will water quality and quantity be adversely impacted? How will this impact threaten endangered species present in this area? What sensitive species is present, and how will they be impacted? This proposal would directly conflict with the winter ranges for big game, as well as impact habitat connectivity by disrupting the traditional migration routes.
Boise City Planning & Zoning Commission
Minutes of
January 19, 2006
Page 8

We, as the direct descendant of those who remain here, cannot allow our relatives remains to be excavated, removed, and destroyed for the sake of land development. The Shoshone–Bannock tribes, and we as direct descendants, adamantly oppose this proposal. Thank you very much. That was from the Shoshone–Bannock tribes.

Chairman Fadness – As you know, we are not here to discuss any developments whether it be the larger development that the county is proposed, or the smaller development that the City appears to be leaning toward. All we are looking at is whether this area should be included in the Area of Impact. Has the Shoshone–Bannock tribe taken a position on that question?

Mr. Shaw – I will have to probably get with my superiors on that question and we can get back with you further.

Chairman Fadness – Okay. Thank you.

Mr. Shaw – In addition, I have my individual testimony to which should only take a couple of minutes.

Chairman Fadness – Well no, when we set it up before we asked if each person was going to be a designated representative to speak on behalf of their tribe, and you have volunteered to do that. If there are others from the Shoshone–Bannocks who would like to testify under the three-minute rule they can, but your testimony on behalf of the whole tribe is concluded. Is that correct?

Mr. Shaw – That is correct, but this testimony here is coming directly from our Business Council of the tribes. I personally have an individual testimony to give as well, because I serve on the Land Use Policy Commission.

Chairman Fadness – Well maybe you can then direct another person to do that. I can’t allow that. You volunteered as a designated representative to speak and that for your group the Shoshone–Bannock tribe, and that is all the time I can allow you under that.

Mr. Shaw – But I can have another individual?

Chairman Fadness – If you so choose you could do that, yes.

Mr. Shaw – Okay, thank you.

Chairman Fadness – We’ll next hear from a representative of the Shoshone–Paiute tribe. Again, I ask everyone to please remember that we are not here tonight to consider any specific housing development, subdivision, or community. The only question before us tonight is, “Should this area be included in City Area of Impact?” That’s what we want to hear testimony about.
Mr. Kyle Prior (Representing the Shoshone Paiute tribes of Duck Valley/P.O. Box 219/Owyhee, Nevada/89832) - The purpose of me being here tonight is also to provide support for the testimony of the Shoshone–Bannock tribes and the Burns-Paiute tribe as well as tribes that are affected by the proposed impact to the area. We feel very strongly about this area because it is an aboriginal territory of the tribes. One thing we noticed in the analysis that was handed out there, is that it lacks the cultural resource part of a study. I don’t think anyone has gone into any detail of what cultural impacts there would be for you to make that decision on should this be included in the Area of Impact. Our tribe, in going back, will have written statements or we will provide your Commission with a written statement about what our position is to clarify what that position is. That is all that I will mention tonight just to be on record on behalf of the Shoshone-Paiute tribes.

Barbara Sam (28 Paiute Street/Burns, Oregon/97720) - It was my understanding that we were coming here to testify on behalf of our tribes, but as you explained that is not what we are doing here. We are looking at what the impact is of the area. As the gentlemen that spoke just a few minutes ago, that is we would like to say. We would like to know what the cultural impact is because our people have been in those areas since time immemorial. For there to be no cultural impact, the culture impact would be significant as far as I’m concerned because, as the gentlemen had spoken earlier, there are graves there. The Castle Rock area is a significant area of cultural resources and spiritual area for all of our people. I think that there has to be some kind of cultural impact on the area. I don’t think that you could just go in there and not find anything. I honestly don’t believe that that’s going to happen. It may not, but I honestly don’t believe that so. I think that the impact in the area would be the cultural part that we would address when it is time to start addressing those. As he had said before, there have been no cultural surveys or anything done in the area. When you make that decision to allow this development to go through, we hope to be part of all phases of the application. I would also like to say that this application also came to us third hand. We had no knowledge of it, and I would think that the tribes play a very important part in development of these areas because we do have culturally significant ties to the area. I would just thank you for the opportunity to speak.

Phil Krueger (President of the Warm Springs Historic District/1311 Warm Springs/Boise/83712) - I am certain that everyone here is wanting to have good planning, good growth, and good outcomes. That can only be achieved if we go through the steps as required to come to that ending. I believe that the Planning and Zoning staff has not done it’s homework as far as involving those that are going to be involved in this to get input that might be useful in whatever final proposals they make. The Warm Springs Historic District has never been contacted by the Planning and Zoning Commission about this proposal. In fact, the only time we were aware of it was with the public informational meeting that was held last week, which only one hour and a half was allotted to presenting this whole proposal, and then answering questions. No real chance to have any impact on the proposal that you are going to vote on tonight. We have worked hard over the years to try and involve all the neighborhoods that are going to be involved in any City decisions so that they at least have the input from those neighborhoods before they make a decision that might adversely, or even positively, affect us. I think the process was flawed from
the beginning that we were not contacted. We were not involved in the process. Now you may ask, “Why Warm Springs?” because we are so far away from the development or the proposal. Well, Warm Springs is the only main arterial feeding from that East End of town through which all that traffic must pass to get to where ever people are going through the city. All of these developments do affect us in one way or another. With the Harris Ranch development, we spent a good deal of time working with the developers and helping with the development of that plan. There is a long list of conditions on the Harris Ranch development because of the impact it has to the west of it. That should have been done with this before it got to you, and that process should have been fulfilled before you people get the proposal as a finished product without opportunity for comment. We had an emergency meeting last night, and we could not come to any conclusion for or against, so the vote was “no position” based on the fact that we have not had the opportunity to talk with the City people about what they are planning to do, or what the impacts going to be for us. Now, as far as the proposal itself, the comments that we can make are that the boundaries of the proposed Area of Impact are, I think, are flawed. Could you please put up the map that’s been shown before? I think this is one of the reasons why a little more homework would have been very useful. It was stated to us is that one of the reasons for this is to have the Foothills ordinances extend out that way for slope control, and they showed the areas on the map, but the most important slope controls are not within the boundaries proposed. If you look at the very East End boundary, the one that is vertical that runs along the section line, if you look to the right of that you can’t see all of it, but there’s a good deal of property to the right of that line that is very steep has wildlife habitat in it, but is excluded from what we are trying to do. That is to encourage development in a responsible way to protect that area. Then the other part of it is in the area within that red line, there is a lot of Fish and Game property already there. I owned a lot of that property, sold it to Fish and Game primarily for their use as wildlife habitat. They said, at the time, because it was one of my conditions to sell them the property, that they would not object to development in this area because they would have adequate wildlife management area. That did not include Hammer Flats, it just included that so-called illegal subdivision. As far as the habitat is concerned, almost all of that area has been burned over multiple times since I first lived out there in 1976. There is very little natural habitat left on the proposed area of Hammer Flats. The area that is still native is outside the red line to the East and to the North where Fish and Game already has their property. I’m not sure, but a lot of those pictures that you are showing before are on Fish and Game property because that is land that I used to own. So, what we are thinking is that we would appreciate that the Commission would say to the staff, “Better get some more homework done, better contact those that your impacting; private landowners, and make a better boundary line that would make more sense.” If what you are trying to do is manage an impact area, and then you have all of these different things that would include the cultural. Thank you.

Deanna Smith (1208 E. Jefferson St./Boise, Idaho/83712) - I am here representing the East End Neighborhood Association, as President this evening. We do clearly understand the issue before you, which is whether or not you should expand your area of impact as proposed in the staff report. EENA does support this proposition for the sole purpose of bringing this area under the Foothills Planning Area. Our position is very clear, because the Foothills Plan was a very long,
arduous process that many citizens participated in, and was not easy, and was a very significant compromise. I think it is a pretty significant planning document. The expectation of the citizens in this community was that that document would be adopted by both the City and the County. It was adopted by the City, but was not adopted by the County, which came to many people’s attention as the notion of something possibly being developed fairly significantly up at Hammer Flats. It is my opinion, that the City has the responsibility to honor that plan and the effort and the process the people went through by bringing this into their Area of Impact, since the County chose not to adopt that plan. It is really interesting to me that, within the Foothills Planning Area, this is one area that is fairly specifically addressed to what the citizens wanted to see happen. If you’ll look at the entire plan and the area that it covers, much of it is more broadly addressed. This area is fairly precisely addressed because of what the people saw working on that plan. They saw a significant wildlife habitat, and therefore, it is addressed very, very clearly, and I think there is plenty of reason, both legal and otherwise, for the City to look at that and to say, “We owe it to the citizens of our community to do what they asked us to do in developing that plan.” So, based on the sole purpose of bringing it under the Foothills Plan, the East End does support the proposal put forward by the staff. With that, I would stand for any questions.

Pete White (President of the Riverland East Neighborhood Association/6706 Glacier/Boise/83716) - Our neighborhood association, if you’ll remember, is Warm Springs Avenue heading east by the river. We go from about right here at the City; in this area, all the way out to the Highway 21 bridge, so we are the neighborhood that touches the proposed impact area. We are the ones that are closest, and were going to be the ones that are most impacted by any development that happens there in the future. Now, I have talked to many people in our neighborhood, and most of our residents have pretty strong thoughts about things that are going to happen there, things that might be happening out there. First of all, almost everyone is concerned with wildlife. We like it, it is there in our backyard everyday, and unfortunately it’s in the roads dead, or to the sides of the roads dead too often. The deer come to our houses; the raccoons come to the cat doors. Whatever it is, the eagles are flying overhead, we see it all and we love it. We know the area has a strong historical and cultural history because I have spoken to many people from the Sho-Bans, and they have told me about the old trade routes going through there. We know that Castle Rock and Eagle Rock have a lot of history there, so we feel there is historical and cultural material in that area that shouldn’t be excessively disturbed. Right now, everybody is on a well system. We have wells either individual wells, or a group well, community well, and the water is very pleasant to drink. We have sewer systems, septic systems, so we don’t need any City services there in our neighborhoods, which goes all the way out to the Bryant Subdivision out there by the Highway 21 bridge. We have access to good schools, and the traffic on Warm Springs? We would like it to be less, but currently it is bearable. What we really don’t want is annexation, because that would provide a much larger tax bill. Let’s be honest about it, more rules and regulations? We like the way we are living there now. So, what about this proposal to bring in this area for development? We feel that many of the people living in the Treasure Valley or that come here, an awful lot of them don’t want to go to Meridian, or Eagle, or Kuna. Some of them might like to be going to the East Side of town. It’s quite nice out there. It’s more convenient getting downtown than if you live in Caldwell, so we know there is going to
be development, and I think everybody is accepting that. So we are faced with two hard choices; do we want to let it go willy-nilly, or do we want it to be done in a controlled and intelligent manner? It’s our general feeling that development can best be handled under the leadership of the City rather than the County, so reluctantly, we are having to make a choice on this. I think that we have come down on the side of having the City control development rather than the County. So in a nutshell, we feel that the City should take over this area and include it in their Area of Impact. Our neighborhood supports the inclusion of that into the City. Any questions?

Chairman Fadness – I would just remind all of those in attendance that we are not here to discuss any proposed development, that any developments that come in this area will come later. What we are deciding tonight, is which body will have final say - Will it be the County, or will it be the City? Should this be included in the Area of Impact? Should the Comprehensive Plan be amended to put it under the Cities jurisdiction and the Cities Foothills ordinance? So, that is the question that we are looking at.

Peter Steven (7300 Highland Valley Road/Boise) - I live and own property in the North End of the Area of Impact. I would just like to express my support for the proposed extension to the cities Area of Impact to include this area. Clearly, it is a very critical wildlife area, and I think it creates a great backdrop for the whole City. I think in terms historically, looking at other countries, other cities; it is very important for any City to insure for future generations they have a responsible planning attitude. I think the Foothills planning policy does that very effectively, so I’m fully supportive of this proposal.

Edward Johnson (5330 Farrow St., Boise, 83713) - I started the land development business in 1967 while I was still a magistrate for this City up until 1976. It has been a desire of mine to help get very, very, lovely places for people to live in. We have succeeded in that. This is the first large parcel of this size that we have ever tried. We have seen what is happening over in Hidden Springs, and how well they have done, and how well they done what they do. We like what they do and we want to do the same thing on ours. I, frankly, resent the City from trying to bulldoze their way into my life when I know that County can do it better than what the City can do. Now, I don’t blame any of you folks because you’re not policy makers. Well, let me tell you what! In the last several years, the radical nature of what this City Council has been doing, and I don’t mean I’m not putting anyone in particular. The only one on that group that knows me is Bisterfeldt. He was a Police Captain while I was a Judge. We know each other pretty well. Anyway, the rest of them are newcomers. All I want to say at this point is that this family business has done well. We have given back as well. My wife and I are on a board of an adoption agency right here in Boise. The other thing I want to mention is when you look at where this is located, would you rather be on the freeway coming to Boise? All the accidents that are coming along there, or would your like or rather use Highway 21 and get downtown quicker and over to Micron? It’s a very convenient location. We are aware of wildlife. We are in a situation where we intend to mitigate wildlife. Let’s look at the larger picture. This parcel of ground is on the tip of 300 miles of open space where people hunt, fish, and do all kinds of things. This is a small parcel of that. We recognize it is important, and we are going to deal with it. The other thing we
want to say is this spring, I think it was in February of 05, the Land Urban Institute came to Boise and analyzed what is happening in our community. In Ada County, their result was it is going to take 3.75 square miles of dirt to handle the growth. Now we think that the dirt up here, and we don’t have a hot springs. We don’t have the things our friends the Indians have mentioned. We don’t have any of that, that we know of. What I’m saying is the County has a great planned development ordinance. The City doesn’t have enough ground to have a planned development ordinance. The County does, and consequently I urge you to listen to our attorneys, they speak very clearly that our intention is to move forward and to try to move forward as we have in the past. Thank you very much. I do appreciate the time that you spend listening to this garbage.

Tucker Johnson (10464 Garverdale Ct., in Boise, 04). The graphic before you briefly illustrates the wildlife area in brown and our property in yellow. It is a bit difficult to believe, frankly, that way back when we first put the property under contract, and I know this is not property specific, but you can’t help but feel that being 85% of the private property owners in this area, that there is some specific targeting going on. That it has been enumerated before when we reached out not only to the neighbors and the community, and the City over a year ago. We were given a flat pre-judgment decision that your private property has already been earmarked for something different. We don’t have anything to talk about with you. The door was basically shut, and why now? Why an Area of Impact expansion in this point and time? Well, if you study the record clearly, as I urge you to do so that this process follows the correct procedure as outlined, you can clearly see that the intent is not to promote development and urbanization, as contemplated by the State statute, for putting an area of land into the Area of Impact. It is clearly identified that the need for the City, in the City’s perspective, or for some in the City’s perspective, to include this ground, again 85% of which is our personal property, into the City’s jurisdiction with the preamble, if you will, that the staff will do nothing and the City will not corporate. The City will not extend services, despite what you heard tonight as a requirement of an Area of Impact expansion that you could, but would you? We do not need City services. In fact, connecting to City services for our intended application to the County would not provide the assets and the means by which to actually restore habitat for the wildlife in the area. There is no water rights on the property, and by collecting the water, which United Water would provide to each home, and then treating that drinking water through the same technology as the City of Star is installing, take that water as a critical resource, and place it in key strategic locations to help overcome the past neglects of the property fires and other issues. It has been inundated with invasive species like Medusa head, and cheat grass, and so forth. We can actually increase the amount of habitat on a smaller footprint than they took…. It is very cumbersome, and is very disheartening, if you will, to see the staff prepare a report without even contacting us. Eighty-five percent of the private holdings within the proposed area, and they didn’t even contact us directly before a day or two before the meeting last week. I would recommend to this body that you take the appropriate amount of time, and if necessary table this. Send it back to staff to thoroughly analyze the issues at hand. Approach those of us that are directly impacted. I’ll stand for questions if you have any?
Chairman Fadness – Where these parties made aware of the public information session that was held and where they made aware of other developments along the way?

Bruce Eggleston – The landowners in the area of record and most of the land of owners outside of that were notified of two things: The neighborhood meeting last week, and this meeting tonight. There where a couple of mailings that went out … regard and anyone who contacted us has been kept informed through e-mails and so forth.

Don Miller (5358 E. Softwood Ct., Boise) - I have the honor and pleasure being associated with the Johnson family and several developments over the past five years. As a broker representing the Johnson’s in the acquisition in the original 700 acres and its subsequent 100 plus acres of adjoining property. I am thoroughly familiar with the development issues that existed before the Johnson family purchased this property. As well as the issues that exist today. The City had no desire to extend the Area of Impact when we had conversations with City staff during our due diligence period. All of the reasons that existed two years ago still exist today as to why incorporation into the City is not a valid option. I read all the staff reports and internal communications within the different City staff and departments. I find all the same issues still exist today as they did two years ago as to why the City can not and should not try to be the controlling jurisdiction. The closest City sewer is two miles away from this area, and as a result it is disingenuous for the City to assert that it has the capacity to provide the sewer services to this area. In addition to that, the size of that sewer line is eleven inches at that point. It would have to be reconstructed to be sized to carry the capacity. If connected to the City sewer no opportunity exists to use non-potable water for common space, parks, wildlife habitat and water conservation practices. There is no irrigation water available to the property. This was pointed out in the staff reports at several locations, that there is no irrigation water available to the property. There are no schools within walking distance. All of the current schools are over two miles away. The nearest planned schools would be at Harris Ranch, which is still several years away at best, and over two miles away. The Boise City Police department is under staffed. It is not able to adequately provide the timely police response. One of the staff requests was responded to by, I believe, a Mr. Bown and by the Chief of Police. The staff response was that they where 6 officers short to be able to provide service to this area. The closest City Park is over two miles away and the closest recreational park is in Columbia Village. There is no way to walk to the parks from the area, and no monies are allocated to constructed additional parks in the area at this time. Harris Ranch, which is two and half miles north, does not have recreational parks at this time. On the other hand, a Planned Community under the County PC Ordinance provides an opportunity to self sufficient quality community. Which provides for all the critical service needs. Planned Community will also slow migration of all the services and cultural further to the West. At the same time providing a quality development where people can live closure to Micron plus employees, supply homes for those two thousand plus people who will eventually work in the approved million square foot office park, and half million commercial area in Harris Ranch. Houses in close proximity to this area would reduce commuting times and help mitigate pollution in the valley. The community is fortunate enough to have the Johnson family as the developer in this wonderful and unique property. Over the past thirty-five years of doing
business across the Rocky Mountain states. With over 300 employees, thousands of business contacts and over five hundred million dollars in real estate transactions for my own account and others. I have not found higher integrity, honesty, and desire to do the right thing than I have with the Ted Johnson family.

Martin Johncox (Representing the Skyline Development/500 W. Idaho St., Suite 250) – I’d like to read a letter from someone who can not be here this evening. They asked me to submit this and another is to you, clarify a question regarding whether a notice and neighborhood meetings where held. Boise City code clearly states the City is to hold a pre-application public information meeting. In this case the Cities application was filed in October 2005, the public hearing was not held until just last week. Actually I believe that was a public meeting not a formal public hearing. In any case this appears to be a violation of applicable law here. I just wanted to point that out.

Chairman Fadness– That will be part of your three minutes then. That letter that you are reading. Or you could just submit it to the record and we’ll make sure the commissioners get it.

Martin Johncox – The letter reads as follows: My name is Dirk Marcom I live at 14364 E. Highway 21 in Boise. I’m a native of Boise, where I live my kids grew up as fourth generation Idahoans. I love Boise and Idaho. There is no where else I would rather live. I have sold land to Skyline Development Company on Hammer Flat, and I own land in the proposed Area of Impact expansion. Last weeks neighborhood meeting about the Area of Impact expansion both raised and answered questions. It is disturbing to me that the City is attempting such a strange position on the taking of private property. This is a very large undertaking effecting private landowners and all people of the City and County. Yet the City representatives said that there was no plans in place to provide this area with services or utilities. The City of Boise sent me information stating they want to control all of the land and all of the land of the other private owners. Make rules and regulations that apply only to us. It’s very disturbing. It states the City is planning on taking my land through opportunities for land trades and acquisition. This is hard for me to imagine while my life’s dream was to build a house on the family property owned for four generations. When asked about there ability to execute this new text change. Boise planners admitted they had no plan or funding in place for such a major undertaking. It was obvious to me and everyone else, that this hasty decision is nothing more than to block the Cliffs. I live on Highway 21 I call this area perfect human habitat. The roads where well planned out years ago for plenty of traffic. The Highway 21 bridge is designed to have four lanes, and the East Parkcenter Bridge will add to the traffic capacity. Really these roads are under capacity for a reason. They where designed to handle growth. The access to this area is exceptional compared to anywhere else in the valley. Boise is shrinking while Nampa, and Meridian and other cities continue to grow. To sustain its tax base Boise needs to add high quality development like the Cliffs. Thank you very much.

Barbara Eno – 9924 E. Highway 21, 83716 - I would like to give all of my information as written testimony please.
Maxine Racehorse Edmo (P.O. Box 367, Fort Hall, Idaho 83203). I’m a member of the Shoshone–Bannock tribes, and I’m also a lineal descendent of Captain Jim, a bandleader of the Boise Shoshone. He lived his entire life in the traditional subsistence lifestyle of our people. He fought to preserve the Boise Valley for our ancestors. Captain Jim and his surviving descendants are buried at Fort Hall according to tribal custom. My testimony today is in opposition to any development for commercial or private use in the Foothills of the Boise Valley. This opposition is based on known and oral history that clearly reveals that numerous Boise Valley Shoshones and Bannocks are buried throughout this area, and their remains are constantly exposed without proper repatriation by our people. Many battles where fought through out 1800s to protect the Boise valley for tribal people until our ancestors, including my grandfather, were rounded up and removed to the Fort Hall Indian Reservation in Eastern Idaho in the spring of 1869. The Boise and Bruneau treaties negotiated with Governor Caleb Lyons guaranteed a reservation for the Boise and Bruneau bands at the confluence of the Boise River now known as the Lucky Peak reservoir. After more than a century, the U.S. Senate has not gotten around to ratifying these treaties. Thus, the U.S. still has not obtained Indian title to the Boise and Bruneau lands of Southwestern Idaho. Although Caleb Lyon, Governor and Superintendent of Idaho Affairs for Idaho, solemnly promised that this matter would be attended to, my grandfather, Charlie Diggy, was sixteen years of age when he was forcibly removed from the Boise Valley and marched by the Calvary to the Fort Hall Reservation. Lucy Diggy Racehorse, my mother, talked often about the fact that the Boise River ran red with the blood of our people. Though oral teachings of our people have been confirmed in written documents, such as the old Fort Boise book written by Anni Lori Byrd, that details the hangings of Boise Indians by the military in the early 1850s to attempt to teach the Indians to remain quiet while the immigrants continued to inhabit the Boise Valley and the surrounding area. The theft of our lands, the broken promises, and the continued lack of recognition of our tribal history still remains in our hearts today. For these reasons, we continue to fight for the protection of these lands. We continue to keep our history alive and our descendants and will continue to fight to protect our lands, especially in the surrounding Foothills of the Boise Valley where we know our people are buried. The City has adopted a Comprehensive Plan that includes a Foothills Policy Plan whose goal is to share growth throughout the community, and to reduce the impacts of urban sprawl. Controlled development of adequate Foothills areas shall be allowed pursuant to standards and conditions that are protective of the Foothills, wildlife, and neighborhoods. Clearly, there is a lack of culture resource sensitivity in this area. There is a definite need for us to make our presence know in Idaho, and especially in the City of Boise. We will continue to oppose any plans that desecrate our ancestor’s final burial places. It is my belief that our history is alive and well in Idaho. We will do all we can to educate all citizens of this state and the City of Boise about our people. Finally, I think it is important to note that the City of Boise does not require private land (End of Tape one) Thank you for cutting me off.

Lucille Edmo – I’m a member of the Shoshone–Bannock tribe of Fort Hall, Idaho, and my address is P.O. Box 367 Fort Hall, Idaho, 83203. I’ll just say a few brief, brief, things. I have lived most of my life at Fort Hall. However, I have attended Boise State University some years ago. I’m aware, through oral teachings or history, that this whole Boise area is still Indian land.
We have never been compensated for it. The Hammer Flat area that is before you tonight and I know that it is sacred land to the Shoshone–Bannock people. Some of my deceased ancestors are there, and that land should not be developed for any reason. Also, I want to agree with the lawyer that made his presentation tonight that the preservation of the wildlife habitat is very important and should be left in its natural beauty, as is. That’s all.

Chairman Fadness – I again want to emphasis that we are not here tonight to hear about any proposed development. The issue tonight is whether this area should be included in the City’s Area of Impact, and who should have ultimate jurisdiction? Should it be the County or the City? We are not here to consider any development, whether it be the Cliffs or any other development.

Albert Ballard – I don’t know why I got up here, but I just came over here to listen. Since you got me up here, I’ll just say a few words. I didn’t even come up here for that. I came up here to listen to the news. I’m from Fort Hall, Idaho but I hope everyone else gets a better treatment than I did here. I don’t mean by that bad treatment, but I’m glad to be here anyway.

Vivian Ballard – I live in Fort Hall, Idaho … Road, and my Sho-Ban tribe. I’m not very much good in this, but I know my ow-pe-paw are buried up there at the Castle Rock. I would like people to leave it alone so we can have them wildlife animals and things up there. I don’t want it to be disturbed. Leave it the way it is. Thank You.

Lucille Eldridge – I’m from Fort Hall. I’m the ancestor of my people here in Boise. My grandmother was born here and her people are all buried here; my grandparents, my great-great grandparents, enough family of my grandmother. She was removed to Fort Hall, and this is where I’m talking for her, because she is not here. What we would like to say is that we opposed what you know we are talking about tonight.

Delila Boise – Box 282, Blackfoot, Idaho – I’m here in regards to the development that you folks are taking about. I’m very much opposed to it. This is the land of my people. We have lived here for generations and generations before. I’m the fourth generation Boise. My great grandfather is buried up here in these hills. I just don’t want this area to be disturbed because this is where they used to hunt and fish. This is where they used to live. I don’t want the City or the County to be making plans to develop the area. I’m very much opposed to that. We got moved from here way back in the 1800s and due to that factor now we call Fort Hall our homeland. This used to be my ground.

Roberta McDade, 10087 W. Lupine St. here in Boise, Idaho. I am Charlotte Damon’s sister, and so I am going to represent her. What I wanted to talk about is that I’m here mostly because I don’t want the development going on up on Hammer Flat, but I am a citizen of Boise Valley. I’ve lived here; I was born at Fort Hall, I’m a member of the Shoshone–Bannock tribe. I’ve lived here three quarters of my whole life. My family has grown up here. I know what it is. I have lived in four different homes throughout the Boise Valley. Every time that I have moved to the county, the City has annexed me into the City. My taxes has gone up, there’s McDonalds living
in my back yard. There is so much pollution, people, cars racing up and down. I believe if the City annexed it, that’s what would be happening on top of my ancestors bodies. Thank you.

Jonni Tinno – I’m at P.O. Box 126, Fort Hall, Idaho. I’m a member of the Shoshone–Bannock tribe. I’m a landowner that the government gave me. Through the treaties passed down, my ancestors have been through this whole area Idaho, Oregon, Montana. I do want to thank that lawyer for stating the procedures were not right. It has happened to us. You would prefer the right procedures to happen. I hope it takes a long time for you people who are proposing these development annexations to do the right thing. I hope it takes you a long time to get there. To your selling of the land, and buying of the land. I guess knowing how the government is, living the life that I have seen my ancestors live. The other people the history and seeing how the residence here are being treated almost the same way. I hope them and wish them luck to both parties. That’s all.

Chris Hendrickson – 5264 E. Branchwood Drive, Boise, 83716. I love the Boise Foothills, specifically the area being addressed tonight, just the way they are. The Boise Foothills played a large part in what attracted me to the Boise area twelve years ago, and they continue to play a large part in what keeps my family here today. We enjoy the recreation opportunities they provide, and we see them providing vital wildlife habitat. For these reasons, I supported the Foothills levy and I now support the staff’s recommendation that the City of Boise requests that the Hammer Flat area be added to the Boise City Area of Impact, and that the Boise City Comprehensive Plan and land use map be amended to add specific policies to govern this area. It is my belief that from an environmental, natural resource, and infrastructure stand point, the seven hundred pieces of property within the proposed area cannot support a one thousand, four hundred home planned community development, and it would be inappropriate. Because the County seems to be willing to allow this high-density development, and because the Counties land use plan is advisory at best. The citizens of the Treasure Valley will be better served if the City of Boise’s land use plans govern the area. If development is going to inevitably take place in this area anyway, it only makes sense that the City has a governing say in how the areas developed since the residence of that community will burden the City’s infrastructure and provided services. We all know that the development won’t be a self-contained development. The City has shown that they can responsibly incorporate critical areas such as this within the goals of the Boise Foothills Management Plan. For all the reasons you have already heard tonight in favor and these, I ask that you extend the Boise Cities Area of Impact over the Hammer Flat area. In closing, if Mayor Bieter were here tonight I would thank him for taking a stand on this controversial issue, and let him know that I support him in trying to stop the Cliffs from going forward. Thank you.

Dennis King – 2117 Leadville, Boise, 83706. I think, thus far, the proposed development of Hammer Flat, which we all realize is directly affected by the decision on extending or failing to extend the Area of Impact, has been addressed in terms of the political, economic, and legal consequences. I think another quintessential aspect of extending the Area of Impact is the ethical entailments involved. Some ethical questions that must be posed and need to be addressed by
those against the extension of the Area of Impact, which would be the County and most likely the developer are the following, should humans act as stewards of the earth and her resources? Or instead, is it simply ours to dominate, abuse, and exploit. Do animals have any inherent rights and, if so, do the very animals that use Hammer Flat for sustenance have rights to their natural habitat. Thus, deserve a consideration of welfare. As yet another species of animal, is it a duty of humanity to preserve a natural balance between ourselves and other species in the biotic community? Striving to co-exist with all living things. Do we have moral obligations to preserve aesthetically valuable lands such as Hammer Flat for future generations of Idahoans, for our children and our grandchildren? Finally, is it ethically correct to put the purely economic interest of a few, (i.e. Skyline Development) ahead of the interest of the human and non-human residents of Ada County and Boise City? So, in my opinion, the developers have failed to address or even consider these and other ethical concerns. I might even venture to say that the developers have only handled all opposing concerns in a superficial and cosmetic manner with the goal of appeasing concerned citizens and willing politicians. Again, in my humble opinion, this perceived lack of concern exhibited by the developers and the County as a representative government official, and their failures to address these ethical considerations, stems from necessity of sorts. That is to say, if the developers did take these questions seriously, it would become apparent that this proposed extension of the Area of Impact ultimately should be approved and further pursued by yourselves and the City. The proposed development should not go forth. Thank you.

Dave Spencer - 9800 E. Highway 21. I’ll just read a couple of paragraphs and then I’ll submit this to the Commission. After reviewing the staff’s recommendation, my wife and I are in favor of it. We live in the Area of Impact, and protection of the wildlife habitat is our main concern. The growth in the antelope herd, the return of nesting querulous, annual winter occupation by deer and elk, just the sheer variety of wildlife raptures, songbird up there make it a unique resource. A large planned community with hundreds of homes will destroy this habitat. Although expanding the Boise City Area of Impact to include Hammer Flat will not prevent housing development or prevent destruction of the habitat, we understand that the City must enforce the Foothills Policy Plan, and as a result, the City will be a better steward of this land than the County.

Lisa Armstrong – 6494 S. Hornbeam Place, 83716. A lot of what has already been said I would echo, especially the last two gentlemen. I believe that we should put this into the Boise City plan and the Foothills extension and leave it at that.

Matthew Miller – 5902 Brian Way, 83716. I’m speaking tonight to urge the Planning and Zoning board to approved the Area of Impact extension. It is no secret that Boise residents consider the Foothills important in our quality of life. The Boise City government has recognized this and has done a great job in recognizing the importance of planning, including conservation planning in the Foothills. The Foothills Plan accounts for wildlife habitat, for recreation, and for development. The Foothills area does not stop at the city limits. Land use at Hammer Flat has real impacts on the City of Boise’ Foothills Planning. This area is important to our wildlife. The
area is heavily used by three thousand wintering mule deer. The mule deer don’t need narrow corridors through the area, as has been proposed. They need an intact place to spend the winter. They don’t need pressure from more roads, more dogs, and a complete loss of their winter range. The Hammer Flat area is also used by elk and pronghorn antelope species with a low tolerance for development disturbance. We are fortunate to live in a metro area that still has its big game. The Idaho Department of Fish and Game recognizes the importance of this area to these big game animals and to the residents who enjoy wildlife viewing, hunting, or just having the animals around. Any loss of Hammer Flat habitat impacts the entire Foothills. Any land use or development at Hammer Flat also impacts city traffic. City residents will have to deal with the increased traffic and associated costs along Warm Springs Avenue. Anyone who lives along or travels along Warm Springs knows that currently many use the road to commute from Idaho City. It is ludicrous to suggest that the Hammer Flat development, obviously much closer to Boise than Idaho City, will have no impact on Warm Springs traffic. It will, and the City will pay the cost, not any developer. There has been no satisfactory explanation of what happens to waste water from any development. With development up stream of the city, if there are problems, it’s the Boise River that is impacted. This means that the development could not only threaten wildlife habitat in the Foothills, but also water quality in the Boise River and all associated rivers, and the Greenbelt. These are high costs indeed, costs that impact our wildlife, our recreation, our quality of life, and our ability to attract business to the area. The City of Boise has been a leader in the efforts to protect the Foothills. The recent creation of the Foothills Environmental Learning Center with the stated mission to educate Treasure Valley residents about how to live responsibly in the Foothills is a testament to that. So, I encourage you to approve the Area of Impact expansion.

Jennifer Miller – 5902 Bryan Way. I live right next to this proposed Area of Impact, and I’m very concerned about the fact that any development there could truly be self-contained. I do believe that the City would be better in handling any future development that will occur, so I would urge the Planning and Zoning Commission to extend its Area of Impact.

Mark Jordine- PO Box 6099, Boise, 83707. I am one of the landowners of the illegal subdivision as has been known. I am against inclusion for about the same reasons Mr. Johnson spoke of. I don’t need to go over those again.

Chairman Fadness – So, you are against inclusion in the Area of Impact?

Mark Jordine – Yes

Josephine H. Halfhide – 841 E. Pennsylvania Dr., here in Boise, Idaho. As a citizen of Boise, in Ada County and the state of Idaho I’m repeatedly concerned that the leadership of all three of these entities refuse to recognize the sovereignty and cultural history of Indian tribes within and outside of the boundaries of the state of Idaho. Especially when it comes to the Boise Valley, which is the homeland of the Shoshone–Bannock tribes. Having done my thesis on Indian families in Idaho and researched the Boise Valley, there is no doubt in my mind that there is a lot
of historical, cultural significance in the valley particularly along the Boise river in the area that we are talking about. As most of the Indian people have testified here tonight, their ancestors and their history, and their culture is buried in these hills. Their people, in the 1800s, were literally rounded up and imprisoned along the Boise river in camps. Many of the Indian women and children where harmed there. Many of the Indian men, women, children died there. Ada County and the proposed developers of this site have done nothing in any way to consult with Indian tribes in Idaho within the boundaries of Idaho, or outside of Idaho. Being this is their original homeland of the Shoshone and Bannock people, I have no doubt that they say, when they say, that this is also sacred ground to them. I am opposed to any development on any land that is culturally viable to the original inhabitants of this land. I find that I must, in choosing the lesser of two evils and I mean that with no disrespect to this body, the City of Boise or Ada County, I choose to support that this land be annexed under this City of Boise for future planning. Only, and I would like to reiterate ONLY, because I feel like it would slow down a process in development and allow time for the sovereign nations within the boundaries of Idaho to be brought into negotiations from the very beginning. Sovereign tribes should henceforth be consulted for any proposed disturbance of the earth that has been of such significance to them. The proposed development, again, should be halted, and the approved Area of Impact should be annexed under the City of Boise.

Dean Gunderson – 711 N. 21st Street, Boise, Idaho. I’m actually going to take this thing out. I’m actually here representing Ada County, I didn’t hear any boos or hisses. Thank you, I was hoping for that. Now what I’m here to offer, and it has been asserted by other people providing testimony that the County is opposed to the Area of Impact expansion. As you well know, the question as to whether or not the City even agrees with the Area of Impact expansion has not made it out of City Hall. The re-negotiation process has not even begun. City Council did meet with our County Commissioners I believe in December. Our County Commissioners expressed great willingness to move forward in the re-negotiation process. It is just waiting for your recommendation to go to council, and then Council’s recommendation or resolution to move this issue out of City Hall to County government to begin the re-negotiation process. So, I don’t want to leave you with the impression that somehow we are dead set against this, because it is not even an application in front of us. More for that matter is the Skyline Development, the Hammer Flat development, application that in front of the County? We don’t have an opinion on that either. Now as you have stated, Mr. Chairman, the question that is before everyone is the question of stewardship. Which ordinance better prepares that or better primes that land for whatever will occur in the future. As such, I would have expected at a minimum within the Hammer Flat Area of Impact, expansion analysis or within the staff report, some comparison of the Foothills Management Plan guidelines to the Ada County Planned Community ordinance. Since these two are somehow being compared to each other, where is the analysis? If you are being asked to render recommendation to City Council upon what are you evaluating, how will you be arriving upon that recommendation if staff has not provided you the necessary tools? Are they asking you to re-adopt or re-affirm the value of the Foothills Management Plan? It is a policy that you already adopted? Of course it is a good policy. How does it compare to the County Planned Community ordinance? I have looked through the staff report. I have looked
through the expansion analysis, and I actually don’t see anything. I would expect that that would be a piece of information that you would want to have before you. Now, if wildlife preservation, which I think is a very good idea, was the intended purpose of the levy, perhaps the money spent was focused on the acquisition of recreational trails and trailheads, which is, in fact, how the money was spent. Which would actually permit public access to nature, not primarily wildlife habitat preservation. Now, the question of what occurred within the neighborhood meeting; I did attend the neighborhood meeting. There were twenty-four questions that were asked directly of City staff. Unfortunately, seventeen of those were marginally hostile, and the folks were not entirely convinced of the City staff’s responses. I’m not sure if a seventy-one percent negative response could be characterized as being generally in favor of the Area of Impact expansion. I want to be clear, there were people there in favor of the Area of Impact expansion. There were errors in the materials that were provided to the public. Especially as it relates to municipal services. Errors in the maps.

Chairman Fadness – Are you here representing the County? Did the Commissioners send you to testify tonight?

Dean Gunderson – Sure, yes.

Chairman Fadness – Okay, thank you.

Commissioner Pavelek – Mr. Gunderson, I guess I’m very puzzled by how the County has chosen to use the Planned Community ordinance that been in there. Traditionally, the County has been the caretaker of the rural or suburban lands and any land that hasn’t been considered for urban-style development, and always been referred to the City and it was not permitted. Somewhere in the last, I don’t know how many years, the County has gotten into the urbanized business of development. I don’t understand it. You don’t provide City services. That has never been your mandate, and yet in this case this is on the fringe of Boise’s urbanized area, and somehow we are into this game. It just seems to me that somehow the Planned Development ordinance is way out of line with the long-term strategies in dealing with development in the Treasure Valley. I don’t understand what is going on.

Dean Gunderson – As far as when your trying to address a timeline issue when did planned communities become a component of the counties comprehensive plan?

Commissioner Pavelek – No, when has it become the policy of Ada County to get into the urban development business?

Dean Gunderson – The County’s Comprehensive Plan permits began permitting planned communities in 1996. Actually, Hal Simmons, then the Comprehensive Planner for the City of Boise, now the Director of Planning and Development, actually stated that planned communities are an appropriate land use through an interoffice memo, an appropriate land use in areas outside areas of the City’s impact.
Commissioner Pavelek – Even when the services could be physically available, the County still wants to get into this business of deciding where the heck you want to have urbanized areas within the jurisdiction of Ada County. I don’t understand it.

Dean Gunderson – As this comes to the point really where is the indepth analysis of the implication of the Planned Community Ordinance. What does it actually mean? I don’t expect that you would take for granted every bit of testimony that I would give to you. I assume that you would consider it colored. That I’m wearing this particular tag, whereas your staff’s analysis of what could occur or what occur. I’m mean, it’s a very basic fundamental question. My concerns come about really with a number of groups that have come forward and said, “Why have we not been consulted?” We would address those particular issues also if we were to receive an application, but unfortunately, as I understand it, I’m a Boise resident and have been since the 1980s. I suppose that makes me an old timer these days. I voted for the levy, I wanted to see the protection occur. The Foothills Management Plan doesn’t require compliance with NAGPRA (The Native American Graves Protection and Repatriation Act). It doesn’t require it. It doesn’t require the cultural resources analysis. It doesn’t require the creation of a wildlife mitigation plan that would be developed in conjunction with Fish and Game. With the City’s application, the minimum application requirements for PC, all of those components are required application items, so my question is back to stewardship. What do you want to see happen out there? Who do you believe is in a better position armed with policies, and plans, and the ability to properly incentivise the correct kind of development? As you perceive it, is it the County or is it the City. I’m assuming that you know everything there is to know about the Foothills Management Plan Guidelines. Do you know what the Planned Community Ordinance actually requires? It’s …

Suki Molina – 930 Aroxill Dr., Boise, Idaho Representing The Idaho Conservation League, who I work for. The Idaho Conservation League preserves Idaho’s clean water, wilderness, and quality of life. I first become involved as a staff person with the Foothills in this room during the Foothills Policy Plan. Deanna alluded to it earlier, but it was indeed a seven-year process. It wasn’t just citizens, it was developers, it was the City, it was the County, it was a long and arduous process. At the time that it was passed in the Spring of 1997, the County sort of intimated and lead most of us that signed that agreement to believe that they would indeed sign that agreement too. I counted up tonight, and it has been eight years since that policy was passed. I believe that we would not be here tonight if the County had signed that plan. I really think that the integrity of that plan was what are we going to do with the Foothills. While I agree that there may be good comparisons between the Planned Community Ordinance, there is the integrity of this Foothills Plan that the City knows all too well about. In order to preserve the integrity of that Plan, I urge you guys tonight to extend the Area of Impact, and I believe that this will honor the time that the citizens, the developers, the City, and the County put into the Foothills Policy Plan back in 1997.
Lonnie Racehorse – Fort Hall, Box 690, 83203. I opposed both the City and also the County on doing any further improvements to this Hammer Flats area because right next to it adjacent is our land. I’m talking about the public lands and history. We at Fort Hall live under the Fort Bridger treaty, which was signed on July 3rd of 1868, and it says we can hunt and fish on any public lands within the State of Idaho. This is the State. The reason I oppose this is, I’m giving this to you and let you, and give you excerpts of this, 1492 was the beginning of the European invasion of America, 1805 first white man to cross the common divide into Idaho, a guy by the name of Clark and Lewis. I think that was their first names. In 1811, first recorded appearance of the white man in the Boise Valley. In 1812-1862, the various trappers and traders come into this area getting furs and stuff from the Indians that were living here. In 1842-1860, the immigrants passed through the area going to Oregon. Between that time, there was 34,000 that came through here and that kind of wreaked havoc at that point, through here. In 1862, gold was discovered in the Boise Basin. In 1863, Fort Boise was established by the U.S. government, manned by Calvary Troops for the protection of white immigrants and the gold panners. October 10, 1864, Treaty of Fort Boise was negotiated by Caleb Lyon, and it was agreed to by the Boise Indians here. The Congressmen failed to ratify it in Washington, D.C., so that is null and void. Then there was the Bruneau treaty that was the same thing happened to that. It was in 1862 it was negotiated, and it wasn’t ratified. Then, like I said, the treaty of the Eastern Band of the Shoshone-Bannock that was in 1868, that gave us the authority after we went over there. March 12th to April 13th, one month in 1869, was a trail of tears of the Boise-Shoshone, Bruneau-Shoshone, and the Southwestern-Bannocks to Fort Hall….. The Bannock war started, and since that time there has been encroachments on all of our lands here. That is basically why I oppose both the City and the County to do anything like this because right adjacent to the this land you’re talking about is public lands, which we can still hunt and fish on.

John E. Reusser – 6123 West Ambonny Lane, Boise, 83709. My son is John R. Reusser. He had planned to make this statement here tonight himself, but as the session was starting he was called out, and so without objection I’m going to read this statement. As a native Boisean and avid wildlife and outdoors enthusiast….As a native Boisean and avid wildlife and outdoors enthusiast, I must register my strong opposition to the proposed development of the Hammer Flats plateau area, and I strongly urge that you would include it in the Boise City Area of Impact. Boise is at a critical crossroads in its development as an urban area. We posses something few cities with our rate of growth do; a large and relatively unspoiled natural area adjacent to our city which provides both critical habitat to myriad species, and boundless opportunities for outdoor recreation. This clearly sets Boise apart from any city of our size in North America. This resource is immeasurable in terms of the quality of the life it affords, as well as being an attraction to businesses and individuals looking to relocate to the area. One of the main indicators businesses and individuals looking for report Boise as one of the best cities in the country to live and work, and this quality of life that we enjoy was quoted as the reason. By preserving our unspoiled open spaces, we are making both a sound civic and a sound financial decision. The short-term gains of development are just that, short-termed. Keeping Hammer Flats unspoiled and touting it as a nature preserve to be cared for and used by all in an environmentally conscience way will generate significantly more income for Boise in the long term. So the choice
is yours, Commissioners. Do you give away part of our greatest treasure to be quickly used by a few greedy individuals, or do you save it for posterity to enjoy. Thanks for considering my input. John R. Reusser, MSW.

Maria Carmen Gaubliel - 6731 E. Glacier Drive, 83716. We came here tonight and we heard several citizens speak in favor of the expansion of the City, some did not, of the City of Boise Area of Impact to include Hammer Flats I say. Citizens expressed their concerns for environmental protection, for wildlife protection of wildlife habitat protection, and for the impact of added traffic on the area. We also heard the testimony of several members of the Shoshone and Bannock nations concerned with their ancestral lands, with the cultural rights that they have inherited as first inhabitants of the land, and I have my own concerns with that respect too. Combined, all these arguments provide a compelling reason for the expansion of the City of Boise Area of Impact to include the Hammer Flats. Many of us believe that the City has a better grasp at providing support for cultural conservation as well as the quality of life. In addition, if the expansion never passes I urge you, as paraphrasing the gentleman on my right here, as good stewards of the land to make sure that not only the environmental issues are considered, but the cultural rights of those first inhabitants of this area be considered if an application for development in that area appears before you.

Evelyn Small – P.O. Box 912, Fort Hall, Idaho 83203. I was just sitting here, and I was looking at your background of your drawings and that should remind you every time you make decisions that this is our aboriginal territories of our ancestors, and when I ask about my family history, our old people don’t like to talk about it because the rivers were ran with blood because, you know, we got chased out of here. It’s a sad story. You know, just looking at that, you know, we did live this land, we lived on the land, we didn’t live in teepees because we roamed, but, you know, that is something modern, but still, you know, just looking at that background you guys should see it every time you guys meet in here and make these decisions, so I don’t know if I’m opposed to the annexation or the Area of Impact, but I back up Lonnie Racehorse as, you know, I’m opposed to all development with the County and the City of Boise.

Tcha Miiko- I am of RR #6 Box 703, Fort Hall, Idaho. That was a good call Evelyn. I kinda noticed that when I came in. If you notice the mountain, its got three teepees on the east side of it, and a heck of a lot of wildlife running through the trees over there. My grandmother, her name was Nancy Wishop. She was born in Fort Boise. Her father was a Wishop, and he ran around here a lot. One thing I noticed that nobody mentioned is during the 8th Street wildfire back in the mid 1990s, I believe it was, I worked on one of the fire crews up there, then I also worked on the 8th Street bear. The rehab project, we’ve had a lot of explosives fire outside the, what they had as a map of, impact area for the gunnery range. Found some things as close as the Boise Basin Road. One of the engineers said that they could assume that the entire Boise ridge lines up here could be in the gunnery range. My brother-in-law said when he was a child, he would have been about 73 now if he had survived, but he said when he was a child in the Hammer Flats area, he and his friends used to run around up there and they found an unexploded 75 mm round. He said that there was other definite pieces of shrapnel scattered throughout that area. You know my
concern is if you have people running around up there doing construction, was that the only round or is there more still in that area. You know I’m not going to be working up there with you, but it would be interesting to go around there and see the impact of this thing, you know. Not only that, you know, it’s like everybody else is saying, we have ancestors up there too, you know. But, I would seriously consider having people look for, you know, an exploded ordinance. You don’t want any unintended surprises.

Lionel Boyer - RR 3 Box 249, Blackfoot, Idaho, 83221. I represented the tribe for well over 40 years in leadership capacity or some other area, and these are the things that your hearing that we have been saying for many years, but it always comes to be that you don’t listen to what we’re saying. A young lady just pointed it out to you. Why display what we believe in if you don’t believe in it. That’s important. You talking’ about annexation; I believe the annexation, if it’s to protect the area, fine; but if it’s for development, no. One area that I’m really concerned about is, you’ve heard it from our people in reference to all the things that have been presented, my family. I come just like the gentleman that just spoke. We are from the same people. We’re part of the last people that was forcibly removed from this area by the Calvary and by the vigilante militia of Boise. Our ancestors, they were born, they lived and they died here, any many of them were killed here. If you look into your history of the City of Boise, your own media tells that. It was nothing to kill the savage Indians of this land except for a bounty. There is entrepreneurship. I guess that’s were it got started in Idaho, along with the gold miners. You know, there is a saying I have been using for a number of years in reference to what we believe in as Indian people, and I don’t know what you believe in, but I certainly hope you believe in what you’re presenting to the public. It says when men has felled the last tree, and when man has taken the last fish, and when man has polluted the last stream, then man will finally understand that you cannot eat money. Now listen to the gentleman here talking about … it doesn’t apply. He tells about how they can get around the laws. Well fine, get around the laws! It’s your conscience that’s going to bother you later, and I certainly hope those that you disturb are going to come back and bother you; each one of you! Remember that, because our people, as I was stating, were the last people that were forcibly removed from this area. Why? So, your ancestors could make a big city here and prosper….

Lionel Boyer – The point I wanted to make is that I could’ve been a Boisean. My great grandmother was married, and she and her husband had a garden farm on the Boise River, and provided vegetables, eggs, sausage; food for the city. When he died, what happened? They took his land, they said it was his land, it was their land. They took his land and forcibly removed her because she was not a citizen of the United States. She was a member of a tribe….and the thing I’m trying to get across here is that you listen to my people talking. You know where their hearts are. It’s time for not only the County, but you the City to show where your heart is at. Believe in what you present.

Wynona Boyer – P.O. Box 833 Fort Hall, Idaho 83203. I have been listened to you guys about the issue of the Area of Impact in regards to Hammer Flats. The concern I got is the same that you’ve been hearing all night. My issues is if the City of Boise within their, I guess, the Foothills
plan, I guess, and within their Area of Impact and the rules and regulations that the City has if it’s going to keep the land as it is, it’s going to support wildlife that’s there because once it’s gone it’s gonna be gone, I would support it. In regards to, I know this issue is supposed to be going to up to Ada County, and what I would do, if the gentleman from Ada County is still here. I think that they need to make those contacts with the tribal representatives that were here. The governing bodies of those tribes, because we still do have this as our aboriginal lands. The whole area of Boise, all the way, pretty much the whole state of Idaho, Nevada, and Oregon is our aboriginal lands. I think they need to, Ada County I guess, would need to contact our tribal leaders to discuss these issues. I understand that it is privately owned land. It was privately owned before everybody else came and took it too. But, I would support as long as the Area of Impact is going to secure that area, it’s going to protect that area, then I would support that.

I would also request from the City Council, from the City of Boise, as well as from Ada County on any other changes, plans, if you’re gonna modify, anything like that; contact the tribes who have vast interest in these areas to get the input from the people. You’ll find a lot of issues there that should be addressed. We may not live here at this time, but it’s not by the choice that we had. We were removed. If our people were here, and we still have those ties to these lands. So I would ask in that aspect of any changes/modifications contact the tribes to let us have a say, let us have an input because we are a party of interest. Thank you.

Jane Suggs – 200 Louisa St. in Boise. I am working for Skyline development on a project that’s been referred to tonight as, “The Cliffs.” It was not my intention to testify tonight, but I wanted to share very much what Mrs. Boyer just said, and that is I think there has been a misunderstanding by many people here that annexation of this area into the Area of Impact or adding this would somehow keep any development from occurring. I think it’s very clear in the staff report that the Foothills plan does not keep development from occurring on that property. The staff report is very clear in showing that several hundred homes could be built there if this area was in control of the City, and those homes would probably take access directly through Brian Way through Highland Valley Road. So I just want to make sure in your discussion tonight you’re very clear about what can be allowed if this area is added to the Area of Impact.

Chairman Fadness If it were to remain under County control as it is now, would there be any development?

Jane Suggs – There could be, through appropriate channels, a re-zoning to a planned community.

Jane Suggs – And by right, there could be development occurring right now. It is in an RP zone, at least a portion of it. Some of it could be developed in 40-acre ranchettes completely fenced with no application or no opportunity for public use.

Carolyn Boyer-Smith – I’m a member of the Shoshone – Bannock tribes. I live in Fort Hall, Idaho, P.O. Box 418. We have heard many different types of comments tonight. We have heard pros and cons, and we have seen various individuals and some of the comments they made were kind of for development, but comments that anybody made against it was wrong. Their
comments are garbage. Everybody has a say, everybody has their own opinion. We brought members of the Shoshone – Bannock tribe elders here. They have a good understanding of this area because it was passed down to them through stories. They have a deep feeling for this area, though they have not been able to come back here as much as they wanted. This is their homeland, their ancestors homeland, and we still have pride in this area, though a lot of times we don’t have that ability to come before you and express what we really want to say because when that opportunity comes it isn’t brought to the tribes. We have not seen any type of consultation, even though, as I heard somebody else say tonight, it is in the history of this area. It is in the history of the Boise Valley, but the tribes have not been asked to consult, asked to be a part of any type of development, and that is wrong. The Area of Impact, whether it be in the City jurisdiction, or any other say the County jurisdiction, they still need to take into consideration the people that lived here; the people’s history that was here. They need to know that those cultural resource laws and those states laws be adhered to, and consultation with the three tribes that you have heard tonight be done. This land and this valley was their homeland. This is where their families were born, and their families died in, and you’ve heard that plenty of times tonight. Convenience should not be the main issue here. It is the protection of these lands, and I think that one measure that you need to look at as the City Commissioners and Ada County, they need to look at getting a good archeologist to do the surveys in there. I don’t know what surveys have been done, but you still need to do those whether it be private lands or what, they still need to be done. The other thing is that you need to research this area, and that includes the history. Work with the state historic preservation office, and do those search records, and then consult with those individuals, those tribes, and it should be mandatory to have that done.

Kathleen Lacey - Thank you Mr. Chair, Commissioners, and the public. I actually would also particularly like to thank the members of the areas tribes who have traveled a great distance to speak with us tonight, as well as the variety of other comment which we have received. I think we’ve gotten a very diverse and, therefore, productive discussion from the audience tonight, so I’m very, very appreciative of on all of those levels. First of all, before I really address the crux of the City’s position tonight, I wanted to make a couple of comments and was appreciative that Ms. Suggs responded and reminded us that the land which we are addressing right now for consideration to bring into the City’s area of impact is currently zoned RP in the county. That designation allows the development of one housing unit per 40 acres, which is a vast difference from how it might be developed under a planned community designation. Also to respond to Mr. Gunderson’s inquiry as to why staff did not do an examination and a detailed study of the County’s Planned Community Ordinance and the Foothills Policy Plan, we do not have a development proposal before us tonight. Some of the developers have spoken with some City staff about the potential for a development, but it is really not the appropriate time to address how the City would react to a planned community coming in under the County. So I simply wanted to respond to that. Now, the crux of the City’s position this evening is that if this area is brought into Boise City’s Area of Impact, the policies of the Foothills Policy Plan would apply. The importance of this is first of all, Boise City has been planning in the Foothills for a long number of years. Not only the seven years which went into preparing the Foothills Policy Plan and the ensuing plans, but several years before that as citizens began to recognize the value of
the Foothills to this valley, the value of the Foothills to the entire state actually. So, Boise City has a very, very long history of planning for appropriate uses in the Foothills. As we have heard spoken of within the Foothills Serial Levy the City citizens and County citizens as well, clearly defined the importance of the Foothills and the need to preserve them. I’d like to emphasize that the Foothills Policy Plan, which as I said would be applied to this area should it come into the City’s Area of Impact, provides for a balance of development and protection of wildlife. The Foothills Policy Plan provides for better development than the County in that it could protect a larger portion. Now, there has been a comment made about the number of housing units that could potentially developed under the Foothills Policy Plan within the City, and I’d like to comment on that. Under the Foothills Policy Plan, there is a possibility that up to 550 units could be permitted, but the City, should this area come into our Area of Impact, would probably seek to limit development to a lesser number than that. Again, it would all depend upon how private ownership came to the City in terms of an application. However, as has been mentioned by many people this evening, the eastern Foothills in which Hammer Flat falls has been designated as the highest priority land for preservation. There are various environmental based policies and priorities in the Foothills Plan, as well as the service constraints that were detailed in the staff report, that would indicate that development under the plan is a much better solution than development in Ada County. I think it’s also very, very critical to remind ourselves that Ada County, Boise City, other jurisdictions, and state and federal agencies all cooperated to develop the Foothills Policy Plan. The intent was to preserve what we have perceived, what the citizens have perceived, and what the state and federal government has perceived to be an immensely valuable resource, close to a developing community with a long history of wildlife use and, therefore, valuable. As many of the people have articulated here on any number of levels, I think primarily we need to recognize that the Foothills Policy Plan represents the will of a large portion of our community, that it was developed under memorandums of agreement between the various entities including Ada County, and that its application to this particular property would most benefit the citizens of Boise as well as the citizens of Ada County.

Commissioner Brunelle – I want to go back to some of the testimony of what was presented by Ms. Snyder and Mr. Mack. There is an argument that they’re raising that this is reverse spot zoning, and what I see in front of me is a decision on expanding an Area of Impact, not making a decision on zoning. I just wanted to know if you would care to comment on that allegation or that point that they raised in Mr. Mack’s letter about that this constitutes what they call reverse spot zoning.

Kathleen Lacey – I am in agreement with you that this does not constitute reverse spot zoning, however, that obviously is an answer that legal staff would have to provide further definition for. However, what are doing is we are not applying land use zoning should this area come into our Area of Impact. What we would be doing is applying the land uses that are designated within the Foothills Policy Plan. Those are not zones but uses, which include open space, buildable land, and slope protection lands. Did that answer your question sir?
Commissioner Brunelle – Yes, it answers the first one and you went a little further. I was going to ask that question about the land use map as well. The land use map is consistent with the land use map that was adopted under the Foothills Policy Plan in the late 1990s?

Kathleen Lacey – That is correct, Mr. Commissioner. Pardon me, just one moment and let me consult with another staff person who has one more addition, I think. Mr. Eggleston informs me that I should use a stronger term; it is identical.

Commissioner Brunelle – Okay.

Commissioner McLean - I have a question about the eastern boundary line. I understood as I was reading it last night and watching through again that it follows the section line, but I’m wondering if you could just provide me with an explanation why the City chose not to go further east to Highway 21 and the river?

Kathleen Lacey – Basically, because we determined that the section line was a legitimate and logical boundary. That question was asked at our neighborhood meeting, and it has been asked again tonight. I think that is something that we could certainly consider in further report or further conversation. I only want to check with our planning director on that one please. But the answer is, it was a logical eastern boundary because of the section line.

Commissioner Brunelle – Just to make a comment on that. It appeared to me from looking at the maps we had in front of us, we see a color version on the screen, that the roadway that runs through the large lot subdivision that’s up there, and then as it moves north it appears that the road splits, and then you get into a bunch of lots that have been acquired by the Idaho Department of Fish and Game, that those roads actually terminate within the land owned by the Department of Fish and Game. Is that correct? There’s no road that goes over to the east on that section line.

Bruce Eggleston - I’m not sure about where the roads run in relationship to the other roads. We could get an aerial map out and answer that for you in more detail at a later time, but I can’t answer that tonight. Your question about why we chose that eastern boundary, it’s simply because we have tried in the past to follow section lines and property lines with our Area of Impact boundaries, so it was just, as Kathleen said, that was a logical boundary that appeared to us. We felt if we were going all the way out to the dam that might be going beyond what we really needed to worry about with this particular amendment.

Commission Cooper – There was attention by the Signet attorney that the two motions here for expanding the Area of Impact and then to make text amendments to the Foothills Policy Plan, as against Idaho law to make those simultaneously. Do you have a response to that?

Kathleen Lacey – Again, I would definitely have to yield that to legal. I would like to agree reiterate, however, the reason the City is recommending text changes to the comprehensive plan
is that Ada County requested that we do so as we moved into re-negotiation for the Area of Impact.

Mary Watson (Legal) - I’d just like to jump in here and say that legal does concur with staff’s suggestions there and that the process tonight is legal.

Commissioner Ellsworth – Yes, could staff address the question that came up from the attorneys about our jurisdiction over the federal land that is in the expansion area.

Bruce Eggleston – We have not discussed that. That’s the first time we’ve heard that argument and we’re not prepared to answer that. Again, our legal staff could perhaps prepare a response to that. We’re not aware of anything that would prohibit us from doing planning for federal land. I’m quite sure we have federal land within our Area of Impact elsewhere in the planning area boundaries.

Commissioner Ellsworth – So you don’t see a problem with it?

Bruce Eggleston – No sir.

Commissioner Brunelle - If the commission cares, I could comment on that since that’s kind of part of my day job. Specifically, when we speak to the BLM managed lands in this Area of Impact, BLM lands are managed under the FLPMA (Federal Lands Policy Management Act) of 1976, which include specific provisions and regulations for the BLM to take into account local plans that pose policies coming from local governments, and it’s clearly what is proposed in this. There is, in my opinion, no conflict. In fact, there is ample track record. We’ve talked a lot about the Foothills Policy Plan that was adopted in the late 1990s, and less about the Foothills Open Space Management Plan. I think that was adopted in 2000 or 2001. BLM was at the table with the City, with Ada County. The Forest Service was there, and private land owners. I’m quite satisfied that there is no conflict. The cases sighted by the attorneys in their letter are specific to one that’s in California, the other boundary backpackers verses Boundary County is actually pertaining to a county plan trying to affect Forest Service lands, and there are no Forest Service lands in this Area of Impact, so that case really doesn’t apply.

Chairman Fadness – I have a procedural question for the benefit of the tribal representatives here tonight. As you know, there are no development proposals before us tonight; however, whether this property is under County or City jurisdiction there may be development proposals in the future. How can the tribal representatives who don’t live within the 300 yards of proposed developments notification list. If they were to make a written request to the City to be informed and to be parties of record to any development in this area, would they then be notified of hearings of any proposals to develop this land?
Bruce Eggleston – Mr. Chairman, we’d be happy to keep a list of those that are interested to be contacted about future public hearings or development applications. If they will give us their name and address we’ll put it in the file.

Chairman Fadness – Thank you, and I guess I would say to those tribal representatives to give a name and a number of a contact person, if you so choose, so that you can be notified if there are any development proposals in this area.

Commissioner Cooper – There was a contention by the representative of the Warm Springs Historic District about improper noticing. I realize that’s not quite a neighborhood association. I just wondered if staff had a response to the noticing procedures?

Kathleen Lacey – We did follow the notification requirements. The neighborhood associations were alerted as were the landowners within 300 feet of this area, as well as we had a number of parties of record and notification went out to all of those individuals.

Chairman Fadness – Further questions? Okay, there being no further questions I will close the public hearing portion of this hearing and the commission may deliberate toward a decision.

COMMISSIONER BRUNEELLE – I WILL MOVED TO RECOMMEND APPROVAL OF CAR05-00050 WITH RESPECT TO AMENDING THE BOISE AREA OF IMPACT.

COMMISSIONER MCLEAN SECONDED THE MOTION.

Commissioner Brunelle – I think that the staff report was fairly complete in answering the three questions that are put to us in Idaho code 67-6526, that in defining an Area of City Impact, three factors need to be considered:
1) Trade area.
2) Geographic factors.
3) Areas that can be reasonably expected to be annexed to the City in the future.

With respect to trade area, I think that there are no facts really in dispute that this area falls within the trade area of the City of Boise. In fact, I think you can make an argument that the trade area probably extends all the way to Wilderness Ranch, but that’s not the question tonight. The question is do we go this far as proposed in the staff proposal to us. I think the trade area, it’s been settled. Second, geographic factors. I think what we’re dealing with here it’s kind of unique in that we’re looking at just a little piece of one edge of the City Area of Impact boundary rather than looking at something larger, maybe a concentric circle around the city. We are talking about one little corner, and I think the geographic factor that drives us this direction is clearly the mountainous area to the north, the fact that it’s in public land ownership and will remain so not withstanding efforts by some congressman to sell off federal lands, but would remain in public ownership, and the second factor is Highway 21 traverses the canyon of the Boise river. You’re going to have a very small Area of Impact that would be added in this area verses something that...
would like more of a concentric circle that would be further to the north and further to the south. I think there is basically some physiographic and infrastructure questions there. Third, areas that can be reasonably expected to be annexed to the City in the future. I think that the staff report is complete in describing the urban services, where they stand today, their proximity to this area. There was some testimony that I think looked at the glass half-empty where they said, “the police department is under-staffed, or the sewer is two miles away cannot reasonably say that this falls within the Area of Impact. I think that’s an argument in saying that the glass is half-empty. The question is, is the area expected to be annexed to the City in the future, what we need to do to be forward-looking, and I think that the staff report provided sufficient evidence to make a positive finding on that.

Commissioner McLean – I think that this is the step that we need to take, recognizing and knowing full well that this is recommending to the City Council that we enter into negotiations with the County to add this area into the City’s Area of Impact. If that happens, I think that it’s going to be very important that the County then, as staff indicates in this report, follows City development guidelines and allows the City to work more closely with landowners as well as Fish and Game and other agencies out there, to properly manage for wildlife and to grow in a way that is going to impact the citizens of Boise east. I appreciate the honesty in the report. I thought that it was actually very clear that development could still occur regardless of whether or not this becomes part of the City’s Area of Impact. The staff did a very good job of explaining what that would be, how it would work, where it could occur just in response to some of the concerns that some of that wasn’t addressed by staff, and just to reiterate that the three findings that have to occur are argued too by staff. I would also like to encourage staff, where it goes forward, to do everything that we can as a City staff to communicate with the tribes as we move forward having heard so many stories of interest tonight, so I just wanted to add that in there.

Commissioner Wilson – I am the Area of Impact Representative for the Barber Valley, and that’s a big fancy way of saying that state law recognizes the people who live in the Area of Impact can’t vote in the City elections where the City is making decisions that affects us, and so state law dictates that members of the Area of Impact be appointed to boards and commissions to provide some representation for the people who live in these areas. I guess tonight that’s me. When I first moved out to this area, I wondered why the Area of Impact ended where it did. It always seemed to be a bit of a mystery to me why it didn’t at least go over to 21, because it doesn’t make sense. Obviously, there is a lot area that can be developed when you look at the geography of the valley, and for a chunk of it to just end right towards the tail end of the valley and leave this triangle, this piece of it out, never seemed to make sense to me, so I am in favor of extending the Area of Impact just to make it make sense. It did not make sense of why that was done the way it was years ago. The other thing that I would like to address in supporting this motion is that most existing residences, including mine, are already within the Area of Impact. There are only a few residences that actually will be added to the Area of Impact and would not have previously expected to be annexed at some point. I think that everyone who lives in the Area of Impact knows that one day the annexation thing is going to come, and one day our taxes are going to go up. When it comes to the question of taxes, my big question is I don’t question
the additional taxes that pay to the City because I recognize the services that they provide. I know I use the parks, I know I use the greenbelt, I know I take advantage of many City services. My question, when it comes to annexation, is why do we have to continue to pay the taxes we do to the County. As far as I’m concerned, the County is in a really sweet spot where they don’t have to provide very many services, but yet they get to collect taxes, and so when annexation occurs all the sudden the City is the big bad actor in this, but I would submit that the County is failing on some of their obligations if they can’t demonstrate what it is that we get as residents of Boise paying County taxes. Another thing that I’d like to bring up is that earlier in the testimony, Hidden Springs was cited as a good example of a self-contained community, and I would submit that it’s exactly the opposite. It’s an example of why planned communities don’t work. They have some of the trappings of a community; they have a grocery store, they have a little garden spot, but what they don’t have there are jobs. Everybody I know who lives in Hidden Springs commutes into Boise for work, and so to say that the community is going to be self-contained and there’s not going to be impacts to the major trade center is a complete fallacy, because the existing example of ‘Oh, this is a great planned community’ everyone I know who lives there uses our roads, uses our infrastructure, uses the parks and Greenbelt, and is coming into the city. There is no doubt in my mind that this is the major trade center. I don’t think anyone can argue with that, and that the concept of putting a planned community right on the border of that existing trade center is not a planned community at all. So that’s why I will be supporting this motion.

Commissioner Cooper – I am going to support the motion. I think that Commissioner Brunelle has spoken very clearly about the findings that we needed to have for supporting this motion. I just wanted to mention that I think it’s very appropriate that control of this land go under the Foothills Policy Plan, which I guess is really the next motion, but as Ms. McLean mentioned, that process has been going on for many years with a lot of thought, and while there will be probably development in the area, it will be very carefully thought about. I am much more comfortable with that.

Commissioner Pavelek – I think my feelings are consistent with the other Commissioners have spoken. I think one of the more difficult things that we face up here are the problems that we have with urban level developments on an urban fringe. Whether it’s a tax issue, or whether it’s a service thing, or whether it’s emergency vehicles, it poses constant problems. I guess I’m kind of appalled that somehow the City and the County have got into competing for development planning exercises and ordinances, and I’ve never seen a place where that occurs, and for a long period of time it didn’t occur in the Treasure Valley. If you want to have urban development a few exceptions would have to occur within the jurisdiction of the Municipality to provide the full range of services. This commission has been threatened and yelled at and everything else over annexation, and they are the most horrible public hearings to go through. It’s not fair to developers both inside and outside to play by different rules, and as different communities have tried different rules, they’ve ended up with pretty disastrous effects. I read a study just before I came on the commission, which has been a while now, about Los Angeles, and the very thing happened. Competing Municipalities wherever the easiest place to develop occurred, that’s
where development went, and so it is spread out. I am concerned about how development will occur. Development is going to occur, and it’s going to require a fair amount of urbanization, there’s going to be a lot of modification that’s going to occur within this community, but if we continue to just simply helter-skelter where everyone has a planned community to set one down is not going to work. Someday, if we ever try and go back with annexation, and our annexation requires the provision of sewers, are we going to go out there expect the homeowner to fork over the money to put in a sewer system? Now, some of the lines, in fact, will be in place because it’s a community system, but to me it’s not good use of urban services as far as total impact on the community to have these things right on the edge of a Municipality. This is not the only one. There is going to be numerous planned communities proposed. We see some already in the paper, and we know how land is being assembled. There is I don’t know how many that will occur. Some of them are going to be posed by out-of-town developers that don’t have a commitment. The Johnson’s do. They have done a good job. They are good developers, and for them to be caught in between the two levels of government is frankly a shame. I’m sorry that happened, but in my mind the County should not have alluded to the opportunity without the knowledge the City is the best-placed urban development. We’ve got full fire departments. We’ve got a full police station. We have libraries. We have a full park system. I guess if the County wants to compete for the Park system, they have the right to do that, but does it make good use of the resources that we have, and I don’t see it. I think the one thing, in terms of the record that should be criticized, is the staff has waited to deal with this situation when they should have seen what potential the impact the planned communities could have on our jurisdiction and our ability to provide logical planning, logical development. We should be looking at a whole different range of Area of Impact considerations besides this one little blip. Rather than going through this again, and wait until somebody spent a bunch of money and get into expectations, to suddenly change the rules it doesn’t make sense. What will happen, good developers will realize why fool around with this, just go, I mean you saw the paper this morning, the center of the Treasure Valley is out in Meridian. The City of Boise, unless it wakes up and gets real active about its planning, is not going to have control over the Valley. It’s foolish to think that we do, and this is the type of dilemmas that we face as a community. We have to make reasonable compromises, but understand that as much as possible, in and around our core, is where we should try to get as much development as we can and logically use our land well. Now, urbanization is not a total negative thing because we live in it, play in it, we work in it, we do all of the things that are necessary. My criticism is it’s time we get on and do the urban planning for the East End of the valley as logically impacted on Boise, and plan it well.

Commissioner Ellsworth – That’s a hard act to follow and I completely agree with the statements made by our statesman, Commissioner Pavelek. He has served on this commission a long time, he sees the issues clearly. Unfortunately, he is leaving this commission in a very short time. This may be one of his last chances to comment on these important issues. I really think the County needs to be a participant in good planning in that they should be there to support the cities, the existing cities and towns in the county to help mitigate the growth that’s going on in this valley, and these planned communities scattered throughout the what was once considered rural Ada County are bad planning. It increases our air pollution. It’s costly. The Mayor has pointed that
out on a number of occasions in the Idaho Statesman and other forums. It just costs a lot more money for the taxpayers. We need to get a grip on this. It’s also harder on the wildlife, and the water quality. All you have to do is take a look at the rest of the Western United States. Just look at Phoenix, Southern California. It’s before us right now. We have to act, and I think that tonight is just one of those times where I think the City is going to be a better steward than the County in this situation. Where is the County with the Foothills Policy Plan? They were there at the table, as you mentioned. Why didn’t they adopt the plan? What’s going on with that. I mean, didn’t they hear the citizens of the county and the citizens of Boise speak loudly when we voted 60% to 40% on the Foothills Plan. I agree. I just think that these two entities need to get together and figure this out, and hopefully they’ll hear out comments tonight.

Commissioner Wilson – I just wanted to emphasize Commissioner Pavelek’s call for better planning throughout the whole Barber Valley and East Boise. That’s something that has been on the table for some time, and I understand that it’s sort of moving forward, and there’s some things that are going on, but I would just like to take this opportunity to recommend to City Council and direct staff to get off the dime on that and let’s get it done.

Chairman Fadness – Commissioner Brunelle, I want to make sure, does your motion include both to amend the Boise Area of Impact agreement as well amending the Boise Comprehensive Plan.

Commissioner Brunelle – No it doesn’t.

Chairman Fadness – So you want to take those up separately?

Commissioner Brunelle – Yes, because I’m not going to make a motion on that other.

Chairman Fadness – Okay, so this vote is simply on amending the Boise Area of Impact agreement. This is a recommendation to the City Council. Are we ready for a vote? All those in favor of the motion vote I.

MOTION CARRIED UNANIMOUSLY.

COMMISSIONER COOPER – I MOVE TO RECOMMEND TO COUNCIL THAT THE BOISE CITY COMPREHENSIVE PLAN AND LAND USE MAP BE AMENDED TO REFLECT SPECIFIC POLICIES TO GOVERN THIS NEWLY ADDED AREA, AND THAT IT WOULD REPRESENT THE BUILDABLE SPACE, SLOPE PROTECTION, AND OPEN SPACE AREAS IN THE FOOTHILLS POLICY PLAN.

COMMISSIONER ELLSWORTH SECONDED THE MOTION. is any discussion?
Commissioner Cooper – I really think that is, in terms of the best steward for this land, that the City’s preparation on the Foothills Policy Plan suits it best for figuring out what to do here, and there will be development, but the most careful way to do it is by the Foothills Policy Plan.

Commissioner – I’d just like to support that and state if the County would have adopted the Foothills Plan in good faith, they were at the table, when it came right down to it they didn’t adopt it in the end, I might not be so concerned, and I might be inclined to trust that they could develop this in a sound manner, but since they haven’t adopted the plan and show no motion towards doing so, I question their ability to oversee any development in the Foothills in this area, or in any other areas of the Foothills.

Commissioner Brunelle – I’m going to vote no on this motion, and the reason I’m going to vote no is I’m not entirely comfortable with going forward and actually making change to the Comprehensive Plan, and I’m persuaded by the comments that Nicole Snyder made in her testimony on whether this is truly in our jurisdiction. You know, I always got to fall back on sports analogies, and maybe this is kicking the extra point after the touchdown, but it just seems to me that two things motivate me. One is I’ve got some doubt that we should make a specific amendment to the comp plan given 67-6508 Idaho Code. There’s a whole list of things that you would look at in a development of a comprehensive plan, the law is not clear on minor amendments to the plan whether you need to jump through all these analyses. Second thing is, is we heard a lot of testimony, heart-felt and I think compelling testimony, tonight from our Native American tribes. It just seems to me that there should be some reflection in the Foothills Policy Plan that is responsive to that. While I’m going to vote no on this and this will be forwarded to the City Council, what I’d really like to see is that perhaps these items that are in the Comprehensive Plan can go forward to the negotiations with the County as far as these are the desires, this is the policy, this is where the City wants to take this Area of Impact negotiation, add to that recognition of Native American cultural history, and concerns for the area. But then I think we really do need to come back, notice up a neighborhood meeting, then file the application, and then go from through a process of a Comp Plan amendment at that time. That’s just my take on this.

Commissioner Wilson – I’m supporting this motion because I’m going to trust that legal staff has reviewed this and feels that it’s appropriate to go ahead and pair the Comprehensive Plan amendment with the amending of the Area of Impact, and to me it really makes a lot of sense to do them together because we can come together once, we can discuss the issues once, we can hear all sides of it, and the Shoshone-Bannock tribe doesn’t need to drive up from Fort Hall for another hearing. So, I am actually grateful that we’ve had the opportunity to discuss both of these issues together because it is intrinsically tied to the land, and it goes back to what I was saying before about the previous Area of Impact boundary just making no sense and being purely a political boundary. I think that by taking up both these issues together, we’re respecting the geography and respecting the land, and looking at it as a Comprehensive package rather than dealing with each of the small political decisions piecemeal.
Commissioner Pavelek – Maybe the maker of the motion can clarify it in the intent that the motion gives. Is it the thought that by making the recommendation that both go forward, that City Council will, in fact, negotiate with the County to ensure that the sequence of adoption will occur in a manner that does not preclude the City’s ability to, in fact, modify the Foothills Plan after the modification to the Area of Impact boundary. Is that the intent of the motion?

Commissioner Cooper – I’m not sure I understand. I was under the impression that the negotiation would be for the Area of Impact.

Commissioner Pavelek – Correct, but the second motion is to modify the Comp Plan.

Chairman Fadness – Yes.

Commissioner Pavelek – And what I’m saying is the intent of the motion is that the Area of Impact boundary will occur first.

Commissioner Cooper - I assumed that it has to.

Commissioner Pavelek – Okay, thank you.

Chairman Fadness – I won’t be voting unless there is a tie, but the way I understand it is we’re amending the land use map in the Comprehensive Plan to include the expanded area of impact that you approved in the first motion and thereby allowing the County and City to enter into negotiations on that Area of Impact. That’s the way I understand the motion. Is there any further discussion?

Commissioner Wilson – Just about the issue of timing and the sequencing of how things happen, I would like to recommend to City Council that regardless of when the applicant or the developer decides submit a formal application, whether it’s to the County now or whether that’s something that comes after the Area of Impact amendment is adopted, that regardless of what’s happening with the development of various parcels that we still move forward with the Area of Impact amendment.

MOTION CARRIED WITH COMMISSIONER BRUNELLE VOTING AGAINST.

Approved:

Gene Fadness, Chairman
Planning & Zoning Commission
Planning & Zoning Commission

Hearing Minutes of
January 23, 2006

Commission Members Present

Staff Members Present
Angela Wood, Carl Miller, Cody Riddle, Susan Riggs, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Time Extension


Deferrals

CAR05-00057/Boise City – COMMISSIONER COOPER MOVED TO DEFER TO FEBRUARY 6, 2006. COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-161/Mesa Falls – COMMISSIONER COOPER MOVED TO DEFER TO FEBRUARY 13, 2006. COMMISSIONER PAVELEK SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00147/Jan Higginbotham - COMMISSIONER COOPER MOVED TO DEFER TO FEBRUARY 13, 2006. COMMISSIONER PAVELEK SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00146 & CVA05-00039/Boise Building Company – COMMISSIONER COOPER MOVED TO DEFER TO FEBRUARY 6, 2006. COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.
Consent Agenda

CAR05-00054/McClure Enterprises
Location: 8205 W. Targee St.
ANNEX 5.02 ACRES WITH A ZONING DESIGNATION OF R-1B.

SUB05-00112/Teeter Meadows Subdivision
Location: On the southwest corner of Targee and Milwaukee.

COMMISSIONER BRUNELLE MADE TWO SEPARATE MOTIONS, EACH TO RECOMMEND APPROVAL OF THE ANNEXATION AND SUBDIVISION. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Commissioner Brunelle – The staff report covers the basis for the annexation and zoning of R-1C for this area on Targee and Milwaukee. It’s adjacent to two square miles of land that we annexed last year into the City south of Overland Road and west of the Edwards Theaters. What we are doing here is adding an area that is just south of that area that had been annexed last year. It is surrounded on two sides by fully developed subdivisions with a similar development type.

CAR05-00055/Nemec Construction
Location: 85 N. Hartman Street
REZONE 1.59 ACRES FROM M-1D TO R-2D.

COMMISSIONER PAVELEK MOVED TO RECOMMEND APPROVAL OF CAR05-55. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED.

Commissioner Pavelek – I know that the City is always wanting to hang onto as much of the manufacturing zoned land as possible, but I think in this particular location with the lack of road service to this property and its proximity to other residential developments, it makes no sense to retain this as a manufactured zoned property. Converting it to an R-2D zone in this location makes a great deal of sense.

CUP05-00162/Nemec Construction
Location: 85 N. Hartman St.
CONSTRUCT AN INFILL PUD CONSISTING OF SIX 4-PLEXES ON 1.59 ACRES IN A PROPOSED R-2D ZONE.

SUB05-00114/Signature Square Subdivision #2
Location: On the west side of Hartman south of Morris Hill.
MULTI-FAMILY RESIDENTIAL SUBDIVISION.
COMMISSIONER COOPER MADE TWO SEPARATE MOTIONS, ONE TO APPROVE THE CONDITIONAL USE PERMIT AND ONE TO RECOMMEND APPROVAL OF THE SUBDIVISION ALONG WITH THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONDITIONS OF APPROVAL. COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

**CAR05-00048 & CUP05-00127/Bart Griffin**
Location: 3078 N. Mitchell & 3061 Linda Vista Lane
REZONE FROM R-1B TO R-1D AND CONSTRUCT A PUD CONSISTING OF 14 SINGLE FAMILY UNITS AND 1 EXISTING SINGLE FAMILY HOME ON 1.73 ACRES WITH A REQUEST FOR A GENERAL EXCEPTION TO UES R-2D ZONING REQUIREMENTS IN AN AREA ZONED R-1B.

**SUB05-00108/Sebastian Villa Subdivision**
Location: On the east side of Mitchell south of Ustick Road
4-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

**SUB05-00107/Sebastian Plaza Subdivision**
Location: On the east side of Mitchell south of Ustick Road.
11-UNIT RESIDENTIAL CONDOMINIUM SUBDIVISION.

COMMISSIONER COOPER MOVED TO APPROVE CAR05-00048 & CUP05-00127. COMMISSIONER PAVELEK SECONDED THE MOTION.

Commissioner Cooper – This is quite a difficult piece of property and creatively developed to maintain an appropriate level of density for this neighborhood, and provide connectivity to both streets.

MOTION CARRIED UNANIMOUSLY.

COMMISSIONER COOPER MOVED TO APPROVE SUB05-00108 AND SUB05-00107 WITH THE STAFF’S FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONDITIONS OF APPROVAL. COMMISSIONER PAVELEK SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

**SUB05-00113/Gillwood Subdivision #2**
Location: On the east side of Cole Road south of Interstate 84.
15-LOT COMMERCIAL/INDUSTRIAL SUBDIVISION.

**SUB05-00110/Ashbrook Subdivision**
Location: On the east side of Hampton south of Fairview.
61-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.
ON THE CONSENT AGENDA, COMMISSIONER COOPER RECOMMENDED APPROVAL OF THE ABOVE SUBDIVISIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS. COMMISSIONER PAVELEK SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR05-00056/Mike Homan
Location: 4041 N. Edelweiss St.
REZONE 3.8 ACRES FROM A-1 TO R-1C.

SUB05-00115/Fairview Point Subdivision
Location: On the west side of N. Hartman south of Goldenrod and west of Cloverdale
18-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Angela Wood – The subject property is located in West Boise off of Edelweiss. This road is accessed off of Ginger Creek to the south and off of Goldenrod to the north, and these are reached from Cloverdale Road. Currently the subject site is undeveloped but does surround an existing single family residence. The area can be characterized as having single family uses on varied lot sizes. The subject property is currently zoned A-1 which is open land with a maximum density of 1 dwelling unit per acre. The applicant requests a zoning designation of R-1C which is single family residential with a maximum density of 8 dwelling units per acre. The property indicates that this area was annexed into the City of Boise in 1995. Many circumstances have changed since that time. At that time the area was characterized by low density uses with Ginger Creek Subdivision to the south and having a density of less than 1 unit per acre. Now the property is surrounded by subdivisions constructed or under construction to the north. Staff does support recommending approval of this rezone to the City Council as the rezone request meets their approval criteria. The first finding requires that the request complies with and conforms to the Comprehensive Plan. This finding has been met. Policy 8.1.2 indicates that zone change requests consistent with the Land Use Matrix should be approved. The land use designation is low density residential and you can see by the grid that R-1C is a compatible zoning designation. Goal 8.0 of the Comprehensive Plan indicates that compatibility with the Land Use Matrix is important and the R-1C zone is an allowable zoning designation within the map. The applicant has submitted a concurrent subdivision request. Fairview Point Subdivision does have a proposed density of 3.94 dwelling units per acre which is also compatible with the Land Use Matrix. This low density residential land use designation applies to most of the residential areas within the City of Boise and this indicates 5,000 sq. ft. lot lots with an overall target density of 4 units per gross acre. Planned unit developments, accessory dwelling units and the application of infill standards may allow higher densities. This is not the case in this request. Chapters 7, 8 and 10 discuss preserving community quality as Boise’s
population grows. These goals include providing for housing with diversity and type, density, location and economic scale. The Comp Plan also seeks to encourage the development of the city, the preservation of neighborhoods and the conservation of identity. The Comp Plan seeks to insure that growth occurs in orderly manner, in a planned and directed way, and that public services are available. The second finding is to provide and maintain sufficient transportation or public service facilities. Comments from public agencies indicate that this request will not place an undue burden on existing transportation and service facilities in the vicinity. I would like to note that no comments from the public school system have been received, but they have been requested. Fire service and utility infrastructure is available. The third finding for a rezone is to maintain compatibility and preserve the compatibility of surrounding zoning and development. This is the issue within this request that has received the most scrutiny from the public. That public comment has surrounded concerns over density, unimproved sidewalks, the school system, compatibility with regard to density, transitional zoning and misrepresented notification from the developer. The Commission has received e-mails dated January 23, 2006 this evening. Currently the zoning of the parcel is A-1 which, is open land. You can see to the south Ginger Creek is zoned R-1A. Ginger Creek has a density of .92 dwelling units per acre. Heather Glenn has density for the overall subdivision of 2.65. Westchester Subdivision, Phase II, has 2.82 dwelling units per acre and Wagon Wheel to the north is 2.79. When you look at these actual built densities when compared to the Zoning Matrix, to the south is R-1A, to the west is R-1C which is 8 dwelling units per acre, to the north is 8 dwelling units per acre, and across the street is R-1B which typically represents an achievable density of 4 dwelling units per acre. You can see by the context of the surrounding vicinity that this land use request will maintain and preserve the compatibility of the surrounding zoning.

Wendy Kirkpatrick (Applicant’s Representative/Landmark Engineering & Planning/Ste. C/104 9th Ave./Nampa, ID.) – The exhibit shows the layout of the project and the proposed landscaping. What we have here is a true infill project. We are surrounding by constructed subdivisions on all 4 sides of the project. We are proposing 15 residential lots on 3.8 acres and a rezone to R-1C. Currently we have an R-A zone which is essentially a holding zone. When this property was annexed from Ada County it was a vacant piece of property and the 1A zoning was a holding zone. We are requesting R-1C which complies with the Comprehensive Plan designation for low density residential. The threshold for development density in this area is 4 units per acre. We’re proposing to come in at about 3.8 so we are in compliance with the Comprehensive Plan designation. We have several significant site constraints on this project. The property to the east of the project is actually under a different ownership from the person that we purchased our property from so we were not able to go in and negotiate a different place for the access road. We have worked with the Highway District and have received staff and ACHD Commission approval for that roadway location. Part of why we have the lots configured the way we do, rather than doing a typical subdivision lot, which would be about 100 ft. deep, what we are proposing is to have lots that are between 130 and 160 ft. deep. The reasoning behind that is to allow a different type of housing product so rather than a typical suburban subdivision lot where you drive down the street and you see a 3-car garage out front, these deeper lots will allow us to construct the garages behind the homes so when you drive down the street you’re going to see a
more neo-traditional neighborhood. All of these homes will have a side entry garage or the garage in the rear and will have shared driveways. So, it will allow a very different housing product than what you would see in a typical suburban subdivision. That is the reasoning behind the lot configuration. We’ve been sensitive to the neighbors to the south. That’s a larger lot, a very nice subdivision so we’ve put our largest and deepest lots on the southern part of this project. We are providing what we perceive to be an upscale subdivision. We are more than willing to work with the neighbors on making this compatible to surrounding land uses. We’re proposing R-1C, and actually about half of the project is surrounded by R-1C zoning, so we think it is compatible with surrounding development. We have put our largest lots on the southern end where we are bordering a larger lot subdivision. We think it’s going to be an asset to the community. It definitely was a challenging site to work with and we think we’ve successfully brought in what we think will be a really nice project for the area.

Commissioner Pavelek – How do you intend to control the location of the garages? There’s no condition of approval.

Ms. Kirkpatrick – We plan on addressing that through CC&R’s. You could also additionally address that through the conditions, but we plan on controlling that ourselves. That is going to be one of the selling points of the subdivision is that we have the garages in the rear of the project.

Commissioner Pavelek – Do you have any specific house plans?

Ms. Kirkpatrick – We do have some. We have a typical lot layout on the eastern edge of the site plan. We can also show you some of the elevations. They were actually based on Heritage Commons in Meridian. We think it will be somewhat typical and like the Heritage Commons project and we’re willing say that we will be in substantial compliance with the housing products we show this evening.

Commissioner Cooper – Is that two lots in the diagram?

Ms. Kirkpatrick – Yes, that’s showing two lots with a shared driveway. We’re showing one attached and one detached, rear garages.

Commissioner Cooper – What is your typical lot width?

Ms. Kirkpatrick – Lot widths vary between 51 and 55 with a much deeper lot than average. An average lot is 150 ft. depth. To the south all of our lots are 160 ft. in depth and on the northern side they are 130 ft. in depth so they actually are larger lots. Because we are doing the shared driveways and the rear garages, it enables us to do what will look like a really traditional product on a narrower lot with our site constraints.
Commissioner Cooper – Would you be comfortable with an added condition about putting the garages in the back?

Ms. Kirkpatrick – Yes.

Diana Anderson (5132 Lancer/Boise/83703) – I’m co-developing this property with Mike Homan. I have some elevations of different subdivisions that have similar sized lots and similar ideas to what we are trying to construct for this development. Our goals here are to have a beautiful streetscape. That’s our main goal for this development, to have a product that actually enhances the neighborhood. We are going to show three different subdivisions. The price ranges that we are looking at for this development; I’m a marketer so I know the market pretty well and for this neighborhood we really think that the market is around $300,000 to $400,000 for these 9,000 sq. ft. lots with rear entry garages and very dressy front elevations on narrow lots. We really like the concept of the shared driveways. We’re going to have larger back yards behind the garage so people can have play equipment, etc. There’s plenty of room for additional space in addition to a private patio. We’re going to be able to provide 3-car garages on all of these lots. The patios will be very private. Our goal is to have a product that is compatible price-wise with the neighbors so that their values are protected. We are providing housing for people that don’t need a 1-acre lot and they can have a nice home with some nice privacy.

Commissioner Fadness – Are the homes going to be constructed by the same builders as the homes you just showed?

Ms. Anderson – No. These are different builders.

Commissioner Fadness – Is it the same developer?

Ms. Anderson – No. The developer for this subdivision is myself and Mike Homan. I’ve just worked with these subdivisions and we like the product. I know the market for the product and they have been very popular. People like that streetscape and the privacy.

Commissioner Brunelle – When you were talking about the importance of privacy, you’ve got lots at the very end of this that look like the side yards would look into the back yards of the neighbors to the west.

Ms. Anderson – That’s correct.

Commissioner Brunelle – What are you going to do about their privacy?

Ms. Anderson – One of the things that we feel is very important is to address the design issue with all of the surrounding neighbors. Because our garages will be in the rear, for example, on the north and the south sides, there won’t be windows looking directly into those back yards at all. That’s one of the nice things that will create privacy for both neighbors. On the west side
we spoke to the neighbors at the neighborhood meeting who have houses there and we told them we would be very happy to mitigate the privacy issues by having a 10 ft. side setback. We could even make that a 15 ft. setback which is the standard back yard setback for Boise City, and create some landscaping and not have windows that look there. They might be looking at the side of someone’s house instead of the back of someone’s house, but we’d be very willing to address those design issues with our designer and also increase landscaping and mitigate their concerns with privacy.

Jed Wyatt (Applicant’s Representative/Landmark Engineering/104 9th Ave. S./Nampa, ID.) – It’s just a 15-lot infill subdivision so it’s going to have very little impact on the surrounding neighborhoods. It is infill. It’s a diversity of housing. It’s a different product type that is very appealing with the front porch and the recessed garages. It conforms with the Comp Plan and the Matrix. We’ve been through ACHD approval and we have their approval for the project.

Jill Fiderlick (4096 N. Chatterton Ave./Boise/83713) – I live to the west of this site. She says that it’s privacy, they’re going to create privacy for us. The question I have is I’m going to see a roof if I don’t see windows. Either way I’m not going to have privacy. I’m going to have a driveway or I’m going to have a garage on the corner of my yard. My house is only 15 ft. from the back fence so that garage that’s going to be in the corner is going to be in my back yard. That garage door, the exhaust, all of that is in my back yard. She says she’d be happy to work with us and I appreciate that sentiment, however when I gave her a phone call to her office it was never returned. I left a voice message so I’m not quite sure how happy she’s going to be to work with us. Three of my neighbors received empty envelopes for the first meeting. It was a standing room only meeting. No one in the room was pro this development with this density. We have a neighbor on our street that was killed in September. She was jogging. She was not in the street. This is not an area that needs any more density. She said the students will be able to walk to school. There are no sidewalks, none on Goldenrod, none on Ginger Creek, none on Cloverdale. There is no school for them to walk to. Pioneer Elementary School is now a district magnet. It’s no longer a neighborhood school. When I called to put my 6-year old child in there, there were 108 on the waiting list so these children who move into this neighborhood will not be able to go. We will be left with infrastructure that the developer does not help with. We’ve got school bussing. I’m a teacher. I know how expensive for the district bussing is. We’re going to have to get those kids to schools that are not in our neighborhood. They are across Cloverdale or they are across McMillan. No one that I know of has looked at the density in those schools. We’ve got children who are already walking in the dark to junior high at 7:00 in the morning. This is not a friendly neighborhood for pedestrians which she has told us it was going to be. I knew when I bought my house this field was going to be developed and I wanted to enjoy the empty field as long as I could. I’m not opposing a development. I’m opposing this level of development. It is not compatible with what you see around. There are only two houses adjacent to this property with a lot size comparable to what she is suggesting. The rest of them are a lot larger.
Jared Adams (12883 W. Paint Dr./Boise/83713) – I live in the subdivision just north of this proposed subdivision. I object to this proposal, not necessarily to the development of this land, but I object to the density and I think you are probably going to hear this from the majority of us that come up here to testify today. Probably the biggest issue I have is this size of lot or this size of land is essentially the same size as my subdivision, Wagon Wheel, just to the north. I don’t understand why they cannot do a mirror of my subdivision and have a density of only 8 homes. It doesn’t make any sense to actually put 15 homes when it is almost an exact duplicate of our subdivision. You’re going to hear also that none of us probably object to this being developed, it’s just the density.

Commissioner Fadness – You say you are at Wagon Wheel which is 8 homes. About when was that developed?

Mr. Adams – It was developed in 2000.

Gretchen Rauer (4062W. Chatterton Dr./Bose/83713) – I’m the other house that’s going to have a side of a home across my back yard and I’m quite concerned about that since I have a 1-level house. What she is proposing is a very long, narrow and tall home. We are 15 ft. from our back fence. I’m worried if it’s 10 ft. on the other side, that’s going to block any light of day that I might see from my home and yard. I’m also concerned because it’s the road that’s also going to come right into my bedroom there at the end of the subdivision that’s being proposed. Most people have already hit on the point that there’s not a sidewalk. Although that was really a huge point with the development at the meeting, talking about she wanted to have a very environmentally friendly community where kids can walk to the store and walk to school. That’s not really doable with any sidewalks and when we posed the question to her if she was going to be responsible to put the sidewalk in, she said that was not her responsibility. When we suggested that she make it a little less dense and maybe throw a park in there for the kids who do move into this neighborhood, she said that I would have to purchase that land and then she would be glad to make it into a park for them. I believe her actions and her words don’t jive with being an environmentally friendly developer. I do fear that allowing this type of infill community in order to use every square inch of available property in Boise is a big mistake for the residents and that we’ll look back on it in 20 years and regret it. Yes, I do know that it’s going to be developed and that’s fine, but I just hope that you make the developers responsible and hold her accountable for developing a fair housing community that enhances the city and not just to try and maximize what they can get for their money.

Linda Dison (12777 W. Ginger Creek Dr./Boise/83713) – I am the house at the end of Edelweiss where everyone of the 150 projects trips this subdivision will provide to us will probably dump. I’m not happy. We’ve lived there since the subdivision was developed 25 years ago. Our density is 9.6. When they calculated the density of the houses in the area, they did not include Ginger Creek Drive. We weren’t a part of it. Well, we are a part of it. We’re a big part of it. We have a beautiful area that we would like to maintain. It’s not crowded where we are. It’s gracious and beautiful. What they plan to do is pave the whole thing from the sounds of it. If
they’ve got a 20 ft. driveway, if they’ve got a 3-car garage, they didn’t give us the square footage of the house, but the lot’s only 9,000 sq. ft., is there going to be any grass? Is it all going to be paved? We have houses in Ginger Creek that are probably 9,000 sq. ft. including the garage. This is not compatible. There’s no transition here. It’s not even transitioning into what’s already there. If you take a look at Wagon Wheel, the subdivision just north of there, you can see there’s very little grass there. That’s almost twice as many houses that are going to be in that other subdivision. There’s going to be nothing left. I think it’s wrong. I think 8 houses should be the maximum. I hope they will consider that. It’s just not compatible. I’m not saying that we shouldn’t have high density. I just don’t think it’s right for where we are.

Kathleen Beynum (4041 Edelweiss/Boise) – As Angela stated, the neighborhoods around the one that extends from Ginger Creek is 2.65 dwellings per acre. Westchester is 2.82 dwellings per acre. Wagon Wheel is 2.79 and Ginger Creek is .9. I’m on 1.355 acres with one home so I don’t see where her proposed 3.94 is even close to being compatible with the surrounding neighborhoods. We all know it’s going to be developed. We’re not opposed to that. R-1C is what the standard seems to be for all the neighborhoods now, but the amount of dwellings is completely incompatible and the price range she’s speaking about, in Wagon Wheel there’s a 6,000 sq. ft. house that’s on the market for $655,000. Many of the homes in Ginger Creek are in the $600,000 to $700,000 range. There’s another home in Wagon Wheel that’s over 5,000 sq. ft. It’s a $500,000 home. That’s going around half the price of what the surrounding neighborhood is. We don’t feel this is compatible. There is a little portion of a sidewalk on Edelweiss for walking to school. Many children and families use our street for walking because it is so quite and safe but obviously with 150 extra cars a day it will not be safe. There are no sidewalks on Goldenrod. No sidewalks in Ginger Creek and no sidewalks on Cloverdale.

Gail Bonine (4041 Edelweiss/Boise) – My home will be almost right beside the roadway that will be entering into this subdivision. Ever since I saw this and knowing just what has been happening around my home, small homes on small lots, with families actually quite small and a family of 4 is kind of small in Boise, I know that my neighbors, there’s cars everywhere. In their garages are boats, snowmobiles, bicycles and things like that. Every since I saw this all I could visualize was where are all the cars going to go. In Traditions, there’s one teenage boy lives by the road that still’s blocked off, his friends all gather on our road and do varies things out there, but mainly have about 6 cars out there. I’m just wondering how this is all going to look for this neighborhood. Sometimes cars don’t make it into the garage. Cars will be just filling up this subdivision. For any of you with teenagers, everybody has their own car and these are going to be pretty expensive homes and so with that plus the various toys, that has been my concern and once again all that traffic that will spill out onto our street. I know this will be developed, but we are just asking for less homes and I think it can be a beautiful area for families. The reality of the school system and Pioneer being so close, but with 108 waiting list, that’s an issue too.

Mark Heath (12603 Ginger Creek/Boise/President of the West Cloverdale Neighborhood Assoc.) – We are the area along Cloverdale Road north of Ustick Road to south of McMillan Road. We have established this neighborhood association many years ago, about 25 years ago, this Ginger
Creek Subdivision started their age lots. The existing subdivisions of Goldenrod Manor, right to the north of the Edelweiss area, are 5-acre lots. Right to the south of Goldenrod is a subdivision that’s been there and has a couple of hundred homes. They are all acre lots so as you can see 25 years ago when this subdivision was planned out there they were planning to put in all large acre lots in there. In the last 15 years there have been a lot of new subdivisions that have transpired. Cameron Park which is to the west is 3 homes per acre. Traditions Subdivision happened in the late 1990’s and there were at least 2.89 homes per acre, a very nice subdivision. Heather Meadows has gone in right southwest of Ginger Creek. All the homes there are at least 3 homes per acre. Wagon Wheel Cove happened right north of this subdivision. As you can tell there are 8 homes in that subdivision. That’s what we thought would happen with the acreage here, that it would be very identical to what happened there. Windwood Cove is a new subdivision that just happened right north of Wagon Wheel. In there they are putting in about 8 homes also. As you can see with the Fairview Point Subdivision, 15 lots in this whole one square mile area is the highest density of any subdivision in that area. We don’t mind seeing developments happen like we have over the last 10 to 15 years, but we want to see subdivisions that are compatible with everything else that’s happened in this area. This doesn’t give us proper transitions between the subdivisions. Everybody will be looking out their back porch right into their back yards. This is too high a density that’s been approved. Please don’t allow any more than 8 lots for this subdivision. 15 are just way too many.

Commissioner Fadness – You say you are representing the neighborhood association. If this proposed development were built, would they be within your neighborhood association?

Mr. Heath – Yes.

Commissioner Fadness – Were you sent by your neighborhood association and are you stating your own views or those of the entire neighborhood association?

Mr. Heath – Those of the entire neighborhood association.

Commissioner Fadness – They took a vote on it and sent you?

Mr. Heath – Yes.

Michelle Adams (12883 W. Paint Dr./Boise/83713) – I concur with what my neighbors have stated. At the meeting we had with all the neighbors a lot of things were brought up, trailer park lots, patio homes, etc. all the things that we don’t want just right in our back yard. There are several of us in the back that have pools in the back that makes it more of a density issue for us. It just seems like at the meeting the developer was very eager to work with us, to compromise, all those things that just doesn’t seem like it happened because the lot sizes are the exact same. Everything just seems like it’s just at a standstill. I’m just asking you, when it comes to the amount of houses, if we could just be able to have what everyone else proposed, which is no more than 8, our subdivision would work not only well for us but those two side homes that were
a big issue on the west side. That’s why I was just hoping that you would keep that under consideration. I do object to this.

Mike Homan (Applicant/2229 W. State/Boise/83702) – When we look at a piece of ground we try to look at the whole area. We meet with staff. We have a pre-app meeting to see what the zone is going to be. The Comp Plan shows the R-1C and in that R-1C it’s up to 8 units per acre. Looking at the surrounding area, there’s some larger lots and those were created when it was in the County. They didn’t have sewer out there and services. Now it’s been annexed into the City where we have city water and sewer. To get staff’s support, they want to see a certain density which is usually around 4. We’re at 3.94. We like to get staff’s approval when go into a project and try to please the neighbors and come up with a happy medium. I think the Diana spent a lot of time on this project trying to come up with something that would be able to handle upper end homes. Usually on a 50 ft. lot all you can get is a double car garage because of the width constraints. First time home-buyers a double car garage is great, but the second or third time home-buyer wants a bigger garage and one way to do that is to get the garage in the back and go to a 4-car garage. We have the square footage, 9,000 sq. ft. so they are not small lots. We’re trying to come up with a design that will work. One thing about the subdivision that we will agree to do is perimeter fence it. This particular site had a hobby farm, tree nursery with a bunch of pine trees. We plan on putting a lot of those on the perimeter because they are in the way where we will have the roads. We try to use that as screening.

Commissioner Fadness – Are you suggesting that you sighted on a larger number of lots to meet staff’s recommended density of 4 units, or would you have come with maybe a smaller subdivision if not for that?

Mr. Homan – This is an infill and it’s very small. The total acreage is just under 4 acres so when you do a subdivision certain costs are involved. We do larger subdivisions 80 or a 100 lot subdivision where you can pass the cost over the lot count. When you get down to under 20 lots it doesn’t pencil real well to do. A lot of these infill will do town houses and we’ll go 8 to the acre in the R-1C. In this area we looked at that. We didn’t think it would be compatible. There are not town houses in the area so we go residential, 8,000 or 9,000 ft. lots. When you get an infill like that your constrained on design so we put a lot of thought and effort into getting the best product we could for the situation of our layout.

Dan Hardy (12965 W. Paint St./Boise) – I am right to the north of the proposed development. From what I understand I’m going to have 2 ½ of these houses in my back yard. That’s completely unacceptable to me. I would also point out that as close as it’s going to be from my fence, I’m going to have several garages right in my back yard. The developer says that this development is designed to create privacy, but that’s not privacy for me or my family or any of the exterior owners. That’s privacy for them. I wasn’t at the meeting that was referred to, but the information that was related to me was that there were absolutely no plans to do any buffering between their development and our houses. We were told that they would send some design people over so that we could buffer our properties, which I found to be an interesting
response. If you look at the homes to the north of that subdivision, there are 4. My neighbor to the east is going to have 3 of these homes just in his back yard. Clearly we’ve got a major density problem. It’s completely spinning, for what the representations they are saying about the size of these lots being compatible to the surrounding areas. If you look at the areas just directly around the subdivisions, their statistics are flawed because they are taking into account properties that are much farther away than the proposed development. I stand on the side of everybody else that’s testified against this. But, to have several garages in my back yard that’s basically going to be from here to that wall is not something that I think any of us would appreciate.

Steve Wiley (4040 N. Chatterton/Boise/83713) – My house backs up to the property on the southwest corner. I’m not too excited about having a house about 10 ft. away from my fence in my back yard. When we bought our property we expected the density in our general area to be comparable to what we purchased and this density is a lot larger.

Scott Hall (12851 W. Ginger Creek/Boise) – I agree with everyone who is opposing the density. Obviously we all agree that it’s okay to develop it. We are relying on your common sense to take all this information and make a good decision that benefits everyone yet to live there as well as the people who are already there. The developer mentioned it doesn’t pencil well to put in lower density. Maybe he would like to talk to the people that developed Wagon Wheel. There are 8 homes there. Everyone seems happy and it seems to have worked out just fine. Edelweiss is a very narrow road. I don’t know that anyone has addressed that, but it’s an extremely narrow road with only a sidewalk on one side. Adding traffic is very dangerous, especially this load. The homes are beautiful that they are presenting and the approach would certainly appeal to you if they were selling you those homes, but to make them beautiful from the street is really irrelevant. Garages in the back is the worst in this situation because that’s where all the homes are being affected and we can’t drive down the road to appreciate this beautiful home with no visible garage because it is a dead-end. If you look at it closely, I don’t see how the cars are going to fit in and out of there. It just looks very bottle-necked, congested. If you were to take a walk down Edelweiss it would be an easy decision to see that the density of 8 fits and makes good sense.

Steve Dobbins (4111 N. Edelweiss/Boise/83713) – I live on the lot directly north of the entrance to the proposed subdivision. I don’t know the rules for a buffer zone between the driveway and the neighbors, but I hope that’s addressed in writing with the developers. They bring up the trees on this lot they will be using for the buffer. However, they have been digging those trees up and getting rid of them day and night over the last week. There’s a lot of foot traffic on Edelweiss with no sidewalks. A lot of it is children, people walking their pets.

Commissioner Brunelle – I’m trying to call when we dealt with a subdivision approval, it was Southeast Boise on Holden Lane. We’re not looking at a conditional use permit in front of us tonight are we? We’re looking at a rezone and then a subdivision so were we to want to try to condition, what would we condition, the subdivision?
Mr. Spjute – It depends on what you want to condition. If you are looking at reducing or increasing the number of lots, you would need to either recommend denial of the subdivision to the City Council, or set it over to a future date and suggest that the developer go back and redesign it with a different number of lots. But, we don’t have any way to condition the number of lots other than through the approval or denial of the subdivision. The rezone can’t be conditioned unless you set it over for a development agreement and ask the developer to come back in with a development agreement which would condition the rezone. You’ve got the rezone to R-1B that you make to a recommendation on, but you can’t condition that tonight unless you ask the developer to come back with a development agreement.

Commissioner Cooper – The question I asked earlier about putting the garages in the back, would it be appropriate to add that to the subdivision application as a condition?

Mr. Spjute – No it would not. We don’t restrict the type of development through the subdivision plat other than the number of lots. The only way you could do that would be with a development agreement or a planned unit development.

Ms. Wood – The word “infill ground” was discussed, but I do want to specify that in correspondence received from Todd Tucker of the Subdivision Staff and outlined on that e-mail dated January 23, 2006, the lots outlined within the subdivision are not requesting any increases in density granted by an infill bonus. They are not asking for any waivers and they do meet the dimensional requirements as required by R-1D. That is having 5,000 for an interior lot, minimum width and depth. There are also not asking for any waivers of the Subdivision Ordinance. As Scott described, a rezone cannot be conditioned without a development agreement. I suggest that we read anything into record that we’d like the City Council to explore. It is correct that Ginger Creek was in Ada County when it was developed. It was platted in 1976 so a lot has changed over the last three decades. In addition, development surrounding this area has increased in density. Because the applicant is not requesting a planned unit development or an infill bonus, I’ve read through the subdivision report and … such as suggested landscape easements or plat notes. But tonight we are trying to come up with a recommendation for Council so they can explore the options.

Commissioner Fadness – You referred to an e-mail that’s dated today from someone on staff?

Ms. Wood – That’s correct. In the packet that I read into the record it’s at the end of the correspondence between Michael Meagretchen, Terry Wylie and Steve Wylie at the end of that packet labeled Item #2 from Todd Tucker. It’s just a brief memo explaining that the subdivision is in compliance and summarizing the findings of the subdivision report.

Wendy Kirkpatrick – Basically this is a 3.8 acre infill project. We’re proposing 15 homes. This is actually a relatively low density. We’re proposing 9,000 sq. ft. I work developing subdivisions. Most all the subdivisions I work on are 5,500 to 6,000 sq. ft. so that’s a typical lot size you are seeing in Meridian, Nampa, Caldwell, some of the western Boise areas where
there’s new development. This is actually a fairly large lot subdivision. I think if Boise is serious about fighting sprawl and looking at how we development, you have to have some density in infill projects and this is not an unrealistic density with the 9,000 sq. ft. lots. The R-1C that we’re asking for and the density of 3.9 units an acre meets the Comprehensive Plan of a density of 4 units an acre and we’re actually coming in a little bit under that. It meets the goals of the planners and the community had when they decided how this area should develop. For privacy issues, we are willing to make a couple of concessions. We are willing to add to our plat a 30 ft. rear setback so there will be no structures within the rear 30 ft. yards. The structures that will be in the rear of these yards will be garages. You’re not going to have windows looking out into the back yards. The 30 ft. setback is double the current 15 ft. setback requirement. On the two lots to the west where we are next to neighbors we’re willing to commit to doing single story houses to help with that privacy issue. The sidewalks are an ACHD issue. Our recommendation from ACHD was for us to install sidewalks only in front of the property we’re immediately contiguous to Edelweiss. They do not want us to install sidewalks across the piece of property on the eastern part of the site plan. There is a neighborhood enhancement grant this neighborhood could apply for where they go in and prioritize where you need to do sidewalks and infrastructure improvements. Typically they look at school routes and heavily traveled areas, but that’s not really a part of this project. So far as traffic impacts, we are proposing a 15-lot subdivision and it will have a relatively minimal traffic impact on the neighborhood. Part of why we chose this area is because it’s a higher end area. We thought it was going to add to our project and we want to present an upscale, higher end project that we think will add to the area and ask for your approval.

Commissioner Cooper – Could you describe where there are and where there are not sidewalks?

Ms. Kirkpatrick – There are no sidewalks on Edelweiss. We will be putting in sidewalks on the southern end of the project and at the northern part also.

Commissioner Cooper – What about your own internal drive? Are there sidewalks there at all?

Ms. Kirkpatrick – I believe it is curb, gutter and 5 ft. sidewalk on the northerly ft. of the site and on the internal local street also.

Commissioner Brunelle – On lots 8 and 9, those would be the lots that you would commit to single story?

Ms. Kirkpatrick – Correct.

Commissioner Brunelle – What would be their distance from the lot line to the west?

Ms. Kirkpatrick – There’s a 10 ft. easement on the western part on the subdivision lots so it would be a standard side yard setback of 10 ft. If we end up lowering our density we would not
be able to do the 30 ft. setback if we have to come in with a lower density. With this configuration we offer the 30 ft. setback.

Commissioner Fadness – That 30 ft. rear setback is on both sides?

Ms. Kirkpatrick – Correct.

Commissioner Fadness – Since this is just a subdivision, to hold them to their word on the 30 ft. rear setback, the single story homes on lots 8 and 9, and the sidewalks, do we then need to require a development agreement?

Ms. Wood – We suggest the cleanest way to accomplish that would be by a plat note or to establish building envelopes on the plat itself as they are reviewed by City Council. To make a clarification, subdivision plats may have a standard irrigation easement of 10 ft. surrounding the perimeter of the parcel, but R-1C setbacks for an interior lot are 5 ft. on the sides, 15 ft. in the front if you have a side or rear entry garage, or 20 ft. if you can see the garage entry and that’s the front plane, and 15 ft. in the rear. Standard interior setbacks are 5 ft. as opposed to 10 ft.

COMMISSIONER COOPER MOVED TO APPROVE CAR05-56.

MOTION DIED FOR LACK OF A SECOND.

COMMISSIONER RUSSELL MOVED TO APPROVE CAR05-056 WITH DIRECTION TO THE CITY COUNCIL TO INCLUDE A DEVELOPMENT AGREEMENT. WHAT I WOULD LIKE CONSIDERED IN THAT DEVELOPMENT AGREEMENT ARE THE FOLLOW: A MAXIMUM OF 10 BUILDABLE LOTS; A MINIMUM OF 8,000 SQ. FT. PER LOT, GARAGES IN THE REAR; AND SINGLE STORY HOUSES ON THE TWO WESTERNMOST LOTS WHICH ARE CURRENTLY NUMBERED AS 8 AND 9.

Commissioner Fadness – I want to make sure that we are not confusing the rezone with the subdivision. I’m wondering if some of the items requested in the development agreement of the rezone might not be more appropriate for the subdivision, the 10 lots, 1-story on lots 8 and 9, the garages. Are those appropriate conditions for a development agreement?

Scott Spjute – You can put zoning regulations on a subdivision plat by the use of notes, but it’s not good practice because it’s difficult to amend subdivision plats and it’s a different sort of procedure than we normally go through. Probably if you wanted to do all those things it would be more appropriate to do that through a development agreement/rezone. You can’t recommend approval of the rezone to the City Council with a development agreement. If you want a development agreement you need to defer action on the rezone and ask the developer to come back with a development agreement.
COMMISSIONER RUSSELL – THEN I WOULD LIKE TO STRIKE MY PREVIOUS MOTION AND MOVE TO RECOMMEND TO THE DEVELOPER THAT THEY COME BACK WITH A REZONE APPLICATION THAT INCLUDES A DEVELOPMENT AGREEMENT THAT HAS THOSE ITEMS INCLUDED INTO IT WHICH ARE: A MAXIMUM OF 10 BUILDABLE LOTS; A MINIMUM OF 8,000 SQ. FT. PER LOT; ALL GARAGES WILL BE LOCATED IN THE REAR OF THE HOUSES; AND SINGLE STORY HOMES ON TWO WESTERN MOST LOSTS LABELED AS LOTS 8 AND 9.

COMMISSIONER MCLAIN SECONDED THE MOTION.

Mr. Spjute – The ordinance is a little bit awkward in the way it treats development agreements. I was assuming that the developer would agree to come back with a development agreement. If that is not the case, then you can forward your recommendation onto the City Council, but it needs to be a recommendation of denial for the rezone and then the City Council would remand the rezone back to the Commission and ask the developer to enter into a development agreement.

Commissioner Fadness – Do we need to ask the applicant now if they are willing to submit a development agreement?

Mr. Spjute – That would be appropriate because the ordinance does say if the applicant is willing to enter into a development agreement.

Ms. Kirkpatrick – We are willing to submit a development agreement and proceed onto City Council.

Mr. Spjute – The development agreement would first need to be reviewed by the Commission before going to the Council.

Ms. Kirkpatrick – Is there the potential for us to go ahead on move onto City Council and then this evening we’ll work through which conditions you’d like to add to a development agreement?

Commissioner Fadness – I don’t believe it would be properly advertised if we did it that way.

Mr. Spjute – We couldn’t send it forward with the development agreement because there isn’t one. If you think the a development agreement should be entered into according to ordinance and the applicant agrees, you defer this and then have it back before you. If the applicant does not stipulate to submitting the development agreement, then you would forward the rezone with a recommendation of denial. At that point the Council can do whatever it chooses. They can approve or deny the rezone, but the ordinance suggests that in that instance it would remand the rezone back to the Planning Commission for review of a development agreement. The developer can take their chances by going to the City Council and getting what they originally asked for, which is an unencumbered rezone and a subdivision, or they can stipulate to doing the development agreement.
Commissioner Fadness – The applicant has agreed to draw up a development agreement to bring back to us, is that correct?

Ms. Kirkpatrick – What would our timeframe be for when we would be coming back here and then moving onto City Council? Could we get on within the next month if we go ahead and do the renotice now for the development agreement?

Mr. Spjute – If we had the development agreement back to us within a working week we could get this on for the February 13th hearing at the very soonest and satisfy all the notice requirements.

Ms. Kirkpatrick – We agree.

COMMISSIONER RUSSELL – I WILL MAKE A MOTION THAT WE DEFER CAR05-56 AND WOULD ASK THAT THE APPLICANT GO BACK AND PREPARE A DEVELOPMENT AGREEMENT THAT ADDRESSES THE FOLLOWING ISSUES: THAT THE DEVELOPMENT WILL INCLUDE A MAXIMUM OF 10 BUILDABLE LOTS; EACH LOT WILL BE A MINIMUM OF 8,000 SQ. FT. PER LOT; ALL GARAGES WILL BE CONSTRUCTED IN THE REAR OF THE HOMES; AND THAT ANY HOMES ABUTTING THE WESTERN PROPERTY LINE WILL REMAIN SINGLE STORY.

COMMISSIONER MCLEAN SECONDED THE MOTION.

Commissioner Pavelek – I think it’s important that we do give some reasons for the reduction in the number of lots. Quite often it’s confusing to the public to know where the Commission stands or why it takes a particular action on a property. There are times when we push for density and neighborhoods come before us and we see justification. My view, and the maker of the motion may have his own views on this, I think in this particular case a larger lot, lower density makes sense in the fact in the context that this is a very small little island in the middle of a whole bunch of other subdivisions that are generally greater. I tried to do the math as best I could. The lots to the north probably were viewed as being infill and protested when they came forward but now that they are they there they seem to make sense. They have approximately about a 90 ft. wide lot as I read the dimensions off the map. If the developer in fact reduces her density down to the 10 lots, she’s roughly going to have a 70 ft. wide lot and I think that’s probably more compatible with this. The other thing I think is relevant is that the lack of sidewalks in this particular case may take some time to get in place. Being that there are larger distances between because of the larger lots, it is a dangerous situation to have people out in the streets. In this case it makes sense. If this property were more to the edge of the neighborhood, I probably wouldn’t be supporting the motion, but being in the location that it is I will support the motion.
Commissioner Russell – Part of the reason behind my motion is that I was concerned about the densities that were surrounding this parcel. We do run into this from time to time and although we do promote high density developments in areas that are this close to the City, I just thought in this case, based off of the surrounding developments, that it was not compatible. I definitely agree with some of the statements that were made here this evening about the number of cars that are going to be created by 16 units, shared driveways, visitors coming in, cars on the street, boats, snowmobiles, etc. I do feel that these lots could become rather cramped and this roadway being a cul-de-sac could not work in this case. I also did some quick math and it seemed like the lots that were on the south side of Tackama were roughly in the 9,000 sq. ft. range, but the lots on the north side were going to be in the range of 5,500 to 6,600. I think by shifting that road to the south a little bit, increasing the width to around 70 ft., we could get 10 lots in there pretty easily that would be roughly around 70x120 feet and that would put all the lots at roughly about 8,300 sq. ft. so that’s the reason for my 8,000 sq. ft. minimum. I was also concerned about the pedestrian access. It does seem like there are a lot of areas here that we do not have adequate sidewalks in place. It was mentioned that some neighborhood grants could be obtained and sidewalks built in those areas, however it is not a sure thing and it takes a lot of hard work by the neighborhood, etc. I felt that the 16 units was a bit much for this location and that was the reason behind the motion.

Commissioner Brunelle – I think this is a good motion. I was troubled by the choices that we would have in front of us for a property zoning. I don’t think R-1A would be dense enough. R-1B and R-1C, with the subdivision that was presented to us, had too many units. I hope that through the development agreement that comes back to us that we can see some of the lots to the west end of this area enlarged so that any building on those lots doesn’t have to be shoe-horned in next to the western edge of the property. I think by limiting this area to 10 lots it’s going to give the developer a little bit of flexibility to spread that out and potentially even have to build less roadway in the way that they configure their subdivision. I support the motion.

MOTION TO DEFER FOR DEVELOPMENT AGREEMENT CARRIED UNANIMOUSLY.

COMMISSIONER RUSSELL MOVED TO DEFER SUB05-115 TO FEBRUARY 13TH. COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR05-00053/DA/Gateway Office Building, LLC.
Location: 2215 W. State Street
REZONE .21 ACRES FROM R-2 TO N-OD/DA.

Susan Riggs – The purpose of the N-O zone is to provide for professional office and similar uses adjacent or in proximity to residential uses. The zone is intended to allow office uses serving nearby neighborhoods and buildings and on sites that are small relative to office development and other zoning districts. Development is intended to be the scale and character similar to nearby residential developments to promote compatibility with the surrounding area. The
adaptive reuse of this site from residential duplex to a neighborhood friendly office corresponds to the Zoning Ordinance’s description for the zoning classification. The office building, immediately to the west, will share the access and parking with the proposed office building. The proposed use meets the Boise City Comprehensive Plan Policies. The Comprehensive Plan encourages office in areas convenient to shoppers and employees and to minimize adverse impacts on the street system and adjacent land uses. In addition, Policy 8.4 states that office use is encouraged along principle arterial roadways, which State Street is. The proposed office will serve as a buffer between the 4-lane roadway, State Street, and the residential development to the south. The rezone will not have a negative impact on the public transportation. The Ada County Highway District’s Report, dated December 15, 2005, and had no site specific requirements due to the fact that all improvements are in place. The proposed neighborhood office zoning designation would not be out of character with the surrounding area. State Street is primarily residential in this area with office and commercial uses interspersed along State Street. The site immediately to the west is developed with an office building. In order to assure compatibility with the existing neighborhood, the applicant has entered into a development agreement to assure the adaptive reuse of this building so it will remain residential in character and also to maintain a shared parking agreement and access agreement with the property to the west so there will be no new curb cuts or driveways proposed with this application. At your work session prior to this hearing I submitted a modification to the development agreement that was requested by the developer for your consideration.

Sam Langston (Applicant/2229 W. State/Boise) – Concurred with the staff report. We intend to maintain the residential character of the exterior. We will add landscaping and include parking in the rear and along the side. We will convert the interior to professional office. I’ve included a support letter from the adjacent property owner who is in full support of the conversion. I’ve also prepared the cross access easement agreement for ingress/egress from State Street. In addition the property will have access from the alley, 23rd Street.

Commissioner Brunelle – Which neighbor, to the east or the west?

Mr. Langston – To the east.

Commissioner Pavelek- We have in other properties along there, a development agreement or a CUP, dealt with hours of operation in these areas where they are using a residential alley. What are the hours of operation?

Mr. Langston – Our office hours are 8 to 5.

Commissioner Pavelek – It would be fine to add that condition to your development agreement? Previously there have been circumstances, not too far away from this location, where there were evening operations. Those operations proved to be in conflict with the residential neighbors. Is there some means of limiting the hours?
Mr. Langston – Is that handled in the zoning designation as neighborhood office?

Commissioner Pavelek – It’s normally handled through a CUP. Since we don’t have a CUP the only thing we have is the development agreement. I presume that’s where, if this is a concern among the other Commissioners, then I would assume that’s where it would be added. Is there a difficulty in terms of limiting the hours of operation?

Mr. Langston – My experience next door to limit the hours of operation would be problematic. Business hours and the times that we occupy the office are two distinctly different things. There are certain times that I have to work late to meet deadlines.

Commissioner Pavelek – What usually is the problem is the interface between visitors; we don’t know who’s all going to occupy, there has been almost some quasi-retail operations and those things have customers coming after the general 8 to 5 hours of an office use. If somebody stays longer, that’s understood.

Mr. Langston – I view that as causing problems for a potential tenant or resale of that property.

Leon Scott (2218 W. State St./Boise) – I live across the street from the subject property. I just hate to see an erosion of our, we have a residential neighborhood that extends from roughly the West Side Drive-In to about 27th. There’s the old Swan Insurance Building is the exception as is the old creamery building. But I have a tri-plex there and what attracts people to that area, my tenants, is the residential nature of the area. As long as there is a good development agreement, I’m not going to stand in the way of progress. I’m concerned about signage and lighting and what ultimately would be the office use across the street. I’m totally in sympathy with the lady that lives next door. She’s had some lousy neighbors and the landlords haven’t been real attentive to some of the needs of the properties. I don’t know of that’s a real good reason to just let it go commercial.

Commissioner Fadness – This does include Design Review so it will go through that process and you’re certainly welcome to have input with the Design Review Committee on that as well, if this is approved.

Dean Gunderson (711 N. 21st St./Boise) – We’ve owned our home since 1992 and we’ve seen consistent pressure to redevelop that corridor. It is the last remnant of single family detached residential homes on W. State Street within the City of Boise. I am not one to stand in the way of progress, but as we see this gradual erosion, either through the issuances of conditional use permits or rezoning, I personally feel that we are constantly playing catch-up. Here’s an ideal opportunity to ask staff to work with the residents along that corridor and actually even the Historic District now actually cuts along that line which is the break between R-2 and the R-1CH, and you can see where C-2D ends right at 21st Street. There is an awful configuration of uses. It is a setup for ruin and that is why you see the decline of some of those properties the further east you go on State Street. This is an ideal opportunity to get out in front of the
situation, develop a specific plan, direct staff to work with the property owners in that area and come up with a specific neighborhood plan that will address really how this should transition. This isn’t about saying no, this is about saying how is this the most appropriate way for this to transition recognizing that you annually get several applications for stuff right along that corridor. It’s a great opportunity to get out in front it.

Mr. Langston – We recognize the residential character of the neighborhood and that’s why we’ve entered into a development agreement that specific to maintaining the residential character of that area and we’re sensitive to that.

COMMISSIONER RUSSELL MOVED TO RECOMMEND APPROVAL CAR05-00053/DA. COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Russell – I’m optimistic about the development agreement. I think that the applicant obviously does intend to maintain the character of that building. I’m happy for that. I think the main reason that I don’t have a real issue with that going off to the N-O zoning is because it does front State Street and I just think that it is a good spot for that type of zoning and will fit well in that area.

Commissioner Pavelek – Would the maker of the motion discuss whether or not all of the properties in this area would have the same argument or is there something special on this particular property that makes him comfortable with his motion?

Commissioner Russell – Without having a lot of detail on some of these residences that are across State Street, it would be hard for me to comment. However, based on the location of the site, the fact that it can be accessed from the alley and that it also does have direct access to State Street, you can provide adequate parking for the building, I think it does make sense. I think that if the other residences that directly front State Street, if the sites could accommodate parking and adequate access, I think just because they do front State Street, probably aren’t the most desirable location for a residence, the N-O zoning may not be such a bad thing for those units. It doesn’t mean that the units that front Ellis Avenue and the streets behind or on the other side of the alley should go to the N-O zoning, but I think that the ones on State Street, without the frontage street like we have a little further down the road, etc., I think it is a good fit.

Commissioner Pavelek – Regardless of which way this goes, this discussion’s going to go on. I think I’ve seen probably about 8 different applications along through this 8 to 9 blocks when you take into account both sides of State Street. I know that there is a property on the north side that is just letter his property curate in the hopes that he can come back in and do some sort of commercial development. There are also neighbors on the north side that have put a lot of money back into those homes and what were starting to fall apart have been restored and are quite nice homes. I’m going to vote for this motion simply because of the shared parking and the exit of the traffic off of the alley. I don’t see a lot of traffic going down the full length and I do see this simply as a unique circumstance of a commercial building next door and shared parking
between these two. I would not see the same conditions on other residential properties. I would be concerned that this would be a precedence for other conversions and I don’t think that would be in the best interest of the city, but in this one I do see the opportunity to do this without having undue impact on the neighbors.

Commissioner Russell – I agree. I think the fact that this site does provide good access, parking, etc., it makes sense. I’m not confident that all these other properties that are fronting State Street there could accommodate the access and the parking. I think that in this case it does work and that was the basis of the motion.

Commissioner Cooper – I think this particular location and the N-O use is very appropriate. I think the Langston Office Building is already an appropriately scaled building in the neighborhood. I guess I don’t share the notion that only this lot would work for this use. I think that part of State Street has had a mix of residential and commercial for a long time. If the parking can be made to work I don’t see why it couldn’t work on another lot also.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

**CUP05-00167/The Interfaith Alliance, dba Sanctuary**
Location: 1317 W. Jefferson St.
OPERATE A HOMLESS SHELTER IN A C-2DD ZONE.

Carl Miller presented the staff report with a recommendation of approval due to the temporary nature of the proposal and the recommended conditions of approval with the intent to mitigate any negative impacts that have been addressed and been brought to staff’s attention. Additional documentation and comments received by staff after the preparation of the staff report have been given to the Planning & Zoning Commission tonight.

Rev. Ed Keener (Applicant/3423 N. 39th St./Boise/83703) – Requested approval.

Howard Villadof (Attorney Representing the Applicant/1524 W. Hays/Boise) – Stated the reasons why staff’s interpretation that the Sanctuary being a shelter home is inappropriate in that the Zoning Ordinance does not define a shelter home. Sanctuary is a church and the use is a church faith based use and is a religious institution under the definition of the Zoning Ordinance.

Commissioner Fadness – Received for the record items regarding the Idaho Administrative Procedures Act as well as a summary report for the Mayor’s Office on Community House and some Federal HUD regulations.

Will Rainford (Advocate for the Catholic Representing Mike Driscoll and the Faith Members of the Interfaith Alliance and Sanctuary) – Stated that they have been working with the City through the Mayor’s Office throughout the process. Shelter Home is not a 24-hour residential facility, but a faith based shelter that provides temporary overnight shelter between the hours of 6
Boise City Planning & Zoning Commission
Minutes of
January 23, 2006
Page 24

p.m. and 8 a.m. and will vacate on April 1st. Request that 70 occupants be allowed for the facility based on the fire codes, not 60. We do not have nor will ever have trained security personnel as the facility is not a jail. We are providing highly skilled monitors walking the neighborhood, collecting trash, talking to the homeless to make sure that they are good neighbors. The facility will be staffed with trained people. I will be the contact person for emergencies. Request that the requirement for a portable toilet outside be deleted. Shelter staff should not be required to enforce City law on or off the premises and the requirement for us to enforce a city ordinance against car camping on Les Swabb property is unreasonable and should be referred to the police. Staggering intake would cause loitering problems and requested that condition be deleted. The homeless are not criminals. They are not dangerous and not a threat.

Taryn Daves (Owner of Fisher’s Vacuum Villa/1223 W. State St./Boise/83702) – Against as she has incurred additional costs for security and lighting. Loitering & panhandling of customers has occurred. Applicants should be made to follow the guidelines. An influx of homeless will occur in the neighborhood as a result of this facility and will cause a hardship to the businesses in the area.

Garry Griswold (Representing the Ada Vision Center/1333 W. State St./Boise/83702) – Is concerned because of problems he has witnessed in the past in the area with homeless people. Concerned that the facility will tax the police service in having to patrol that area. Has found evidence of drug use and defecation on private property done by homeless people and has had to clean up trash and cigarette butts. Concerned over parking issue as there is limited parking in the area.

Charlotte Lanier (Community Detox Coalition/617 S. 13th/Apt. 311/Boise/83702) – Coalition supports subject facility and will partner with them to assist people in recovery.

Dix Brown (1911 N. 10th/Boise/83702) – Volunteers for Sanctuary to monitor the neighborhood at night. Picks up what little trash there is. People are not loitering in the area. Sanctuary has only been in operation in the last 4 weeks so problems that have occurred before then were not a result of the facility. Sanctuary will be supplying bathrooms inside.

Todd Noble (1333 W. Jefferson/Boise/83702) – Stated he was told Sanctuary would have a conditional use permit before moving in and that a neighborhood meeting would occur before they move in, neither of which has happened. Has tried to contact Sanctuary of problems he is experiencing and was informed to contact the police. Concerned about the applicants’ ability to properly run and manage the shelter and believes the volunteers are unable to handle the problems. Since Sanctuary has moved in there has been a large increase of homeless, loitering, public urination and littering in the neighborhood.

Henry Krewer (6044 Cobbler Ln./Boise/83703) – Volunteers at Sanctuary. Most of the people staying at the facility are known to the volunteers by name. Emergency personnel are usually called only for medical assistance. Urged approval.
Mark Mathrick (2802 Norman Dr./Boise) – A reasonable solution should be reached to allow this facility to stay open.

Maryanne Sites-Heart (4179 N. Marcliff/Boise) – Volunteers at Sanctuary. There is a critical need for mental health & detox facility in this community. Urged approval.

Dean Gunderson (711 N. 21st St./Boise/83702) – Member church has hosted Sanctuary during the Christmas season and no problems occurred with no negative impacts. Requested approval.

Beth Vawter (1333 W. Jefferson/Boise) – Submitted a memo from Locksaw Engineering.

Nick Dewhoe (1300 W. Osprey Dr./Eagle, ID.) – Urged approval of the request. This is only a short term solution to the problem.

Kelly Bickla (1117 N. 6th St.) – Owns property occupied by the Burns Studio and a duplex and a house in the same block as the Sanctuary. The problem with the homeless shelter in the neighborhood isn’t the people inside, but the people outside or those turned away because they’ve been drinking or doing drugs. They end up in the neighborhood yards. This would cause a saturation of homeless people in one area. It needs to be spread out.

Walt Wronk (1109 W. State St./Boise) – Formerly homeless. There are things broken in this community that need fixing. People need healing and Sanctuary is the facility that it will evolve from.

Richard Mabbutt (Director of the Intermountain Fair Housing Council/803 10th St. South/Nampa) – Under Federal and State law there is an existing question of the interpretation as to whether a conditional use permit is required for this as outlined by the Attorney. This will be serving folks with disabilities. This is a reasonable accommodation. Would like Condition #4 modified to 8:30 a.m.

Commissioner Fadness – Received for the record a request for reasonable accommodation.

COMMISSIONER BRUNELLE MOVED TO APPROVE CUP05-0167 WITH THE FOLLOWING CHANGES: CHANGE CONDITION #3 FROM 60 TO 70; CONDITION #4 DELETE AND REPLACE WITH: SANCTUARY VOLUNTEERS WILL MONITOR THE PREMISES IN NEIGHBORHOOD AND PICK-UP TRASH AND COMMUNICATE WITH NEIGHBORS ON A REGULAR BASIS; DELETE CONDITIONS, 6, 7, 8 AND 13.

COMMISSIONER MCLEAN SECONDED THE MOTION.
Mary Tyree (Legal) – Indicated that if the applicant wishes to pursue the “reasonable accommodation,” the application should be deferred to allow legal time to review it and advise the Commission at a later date.

Mr. Babbitt - Chose to withdraw the “reasonable accommodation” and indicated they may submit it later depending on the Commission’s decision.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER RUSSELL LEFT THE MEETING AT THIS POINT AND FURTHER MOTIONS FROM THE COMMISSION WILL NOT REFLECT HIS VOTING

CUP05-00152 & CVA05-00042/Quasar Development
Location: 916 E. Park Blvd.
CONSTRUCT A CONDOMINIUM PROJECT CONSISTING OF 90 RESIDENTIAL UNITS WITH RETAIL/COMMERCIAL ON THE 1ST FLOOR ON 1.74 ACRES IN A C-3D ZONE. THE REQUEST INCLUDES A HEIGHT EXCEPTION TO 147 FT., AND A REQUEST TO INCREASE THE FLOOR AREA RATIO, A 20% INFILL DENSITY BONUS, AND SETBACK VARIANCES LONG FRONT STREET AND PARK BLVD.

Susan Stacy presented the staff report with a recommendation of approval.

David Waldron (Applicant’s Representative/80 W. Cottonwood Ct./Eagle, ID.) – Spent weeks analyzing the property and completed some mass studies early on. Placed the parking below grade to keep it out of site. Met with the East End Neighborhood Association, the Strawberry Lane Townhouse Association, and the owners of the Washington Plaza Group and held an on-site neighborhood meeting. Considered the view of the project from a gateway perspective.

Rod Graham (Applicant’s Architect/1410 SW Morrison/Portland, OR.) – Explained the seasonal shadowing of the project.

Phil Toomey (351 S. Pierce Pl./Boise/83712) – Against. Prefers lower, Washington Group type buildings. Existing zoning rules should be upheld and new buildings, setbacks, landscaping and appearance is of a quality that fits with the other buildings in the area so as not to jeopardize Park Blvd. and surrounding area. Retail space is not needed on Park Blvd.

Randy Smith (818 E. State St./Boise/83712) – Concerned about looking into the front rooms of the residents of the proposed building living 6 blocks away. Views enjoyed by existing residents would be impacted by this building.

Patty Perose (Representing Strawberry Square Townhouse Assoc./515 S. Walnut/Boise/83712) – Against the 147 ft. height of the proposed building as it will significantly change the landscape of the entrance to the historic Warm Springs area and create visual blight. Proposal is a better fit
in the downtown corridor and is not compatible nor appropriate for this area. It will set a precedent for the area.

John Knipe (1000 Strawberry Ln./Boise/83712) – Against granting a variance. The height restriction should stay at 45 ft. and any proposal on this site should step down to the surrounding neighborhood which are 1 and 2-story buildings.

Commissioner Fadness received for the record some pictures of the neighborhood along with height descriptions and drawings.

Janny Knipe (1000 Strawberry Ln./Boise/83712) – Against proposed height. Need a transition. Proposed building is something that should be in the downtown Boise. Likes the mixed use concept.

Thomas Whitworth (991 Strawberry Ln./Boise/83712) – Is not against using the site for commercial or residential, but the guidelines of the C-3R zone should be followed, particularly the height and setback regulations. Would like to see a sound study conducted as to how the development will affect the surrounding neighborhood.

Ray Frechette (983 Strawberry Ln./Boise/83712) – The height being asked for exceeds the restrictions by 3 ½ times. The structure would cover 92% of the site whereas the Washington Group buildings cover about 25% of their campus. Applicant is looking to put a C-5 building in a C-3 zone. The proposed building belongs in the downtown corridor.

Rocky Bogert (Representing East End Neighborhood Assoc./2105 Warm Springs/Boise/83712) – There should be a transition element. This 140 ft. building fits downtown but not in this neighborhood or at the edge of it. The MK Plaza building heights are much more reasonable. This proposal should be deferred to allow the applicant to work with the neighborhood on a new proposal. We support neighborhood commercial in this area. Enhanced transit amenities should be incorporated in this area.

Deanna Smith (Representing the East End Neighborhood Assoc./1208 E. Jefferson/Boise/83712) – Concerned over the height. This is a transition zone going directly into a neighborhood.

Julia Davis (1129 Kimberley Ln./Boise/83712) – Concerned about the busy intersection and how the proposed building interacts with the intersection. A building that deviates from the setbacks that have been established along Park Blvd. is a huge factor and has not been addressed sufficiently in the presentations with the elevations. Shadows would have a huge affect on surrounding properties.

Anthony Damer (1123 E. Kimberley Ln./Boise/83712) – Concerned over the height and how the building will be viewed from the Greenbelt.
Richard Morgan (1238 Kimberley Ln./Boise/83712) – Concerned over the proposed building height as it will not fit in with the surrounding architecture. It belongs in the central business district. The complex should be redesigned to distribute it more evenly over the site and be comparable with the Washington Group buildings with a maximum height of 75 ft.

Ira Fonshill (200 Coston/Boise/83712) – In support of project. It is well needed in this area and is in close proximity to the hospital and all the other services.

Cameron Wold (1023 Strawberry Ln./Boise/83712) – Affordable housing should be made available in the neighborhood and doubts this proposal meets that need.

COMMISSIONER MCLEAN MOVED TO DEFER CUP05-00152 & CVA05-0042 TO MARCH 13, 2006. URGED THE APPLICANT, THE CITY AND THE NEIGHBORHOOD TO SIT DOWN AND TALK MORE ABOUT THE DESIGN AND WHAT OUGHT TO HAPPEN ON THIS SITE. THE DESIGN IS BEAUTIFUL BUT TOO TALL FOR THE AREA. THIS IS A GOOD PLACE FOR DENSITY. TRANSPORTATION OPTIONS NEED TO BE LOOKED AT. BURIED PARKING IS A GOOD IDEA. APPROVE OF PUSHING THE BUILDING CLOSER TO THE SIDEWALKS SO THERE AREN’T YET MORE PARKING LOTS ON THIS STREET.

COMMISSIONER COOPER SECONDED. THE MOTION CARRIED WITH COMMISSIONERS RUSSELL AND PAVELEK NOT PRESENT FOR THE VOTE.

Commissioner Cooper – I’m starting to look at the strong setback along Park Avenue of the Washington Group buildings. I don’t know that Park and Parkcenter are as successful as a lot of people think, but there is a strong pattern set up there. The more extreme of the variance request seems to be on Park Blvd. and I think maybe the building is just a little too close to that. I also agree that along with the New Urbanism goal of mixed use and density, supporting transit here is a great thing to do here and is a must do.

Commissioner Brunelle – I’m persuaded by the arguments and the testimony that a 140 ft. tall building is way too high. I would not support a height exception for that height. I think we have to ask ourselves in this part of town, with the termination of Park and Park Blvd., where they come together at this east end, what’s the appropriate bookend for that area. A 140 ft. high building, in my opinion, is not an appropriate bookend for that block that starts with the grand old MK Headquarters over on Broadway and Park. I think the implications for the Cosmopolitan property, the fact that that’s zoned the same and is there ready to be developed, I think we need to take into account that we have to be very careful for what an acceptable building height would be on this parcel in this proposal because that is going to set the table for what future development will be along there. Then you are into the neighborhood. You’re right next to the Strawberry complex and right onto Walnut Street. This is not in the Urban Redevelopment area and CCDC is instead doing their business downtown and they’ve recently expanded with an East Side Old Boise Master Plan. In that document their master plan for that area, what they call the
built forum or building size and shape, they call for residential buildings 3 to 6 stories. There’s now a debate as to whether that should be inched up to 7 stories. There’s nothing in there about 1,240 ft. high buildings. The only place you see that is in the C-5 in the core downtown and I think that’s where a building of that height would belong. I think we can take some cues from what’s going on closer in towards downtown with that master plan document. 90 units, I guess that’s allowable. The density is good. I think once you pass 30 or so units on a property of that size, I think you’ve hit your point of where you can support things like transit. I would suggest that the developer not shy away from looking at pushing the building more towards the Morrison-Knudsen Building there at the east end. I think the comments from Commissioner Cooper were interesting. I might take on the variances. I think those are exceptions and I think the variance for Park Blvd. I could go along with because there is a large island that protects a major part of Park Blvd. from this parcel with the exception of that little bail out left-turn lane for people that need to make the turn back onto Parkcenter. I think the setbacks, given these streets, will not be expanded beyond where they are now, but I could probably go along with the exception that staff had identified.

Commissioner Fadness – I would add that I hope that the developer also continues with the plan for commercial on the lower level. I know that some people don’t feel like this is downtown, but when you look at Boise 20 to 25 years from now with development probably clear out to Lucky Peak, this is downtown and I think commercial is an important element at the lower level.

MOTION CARRIED WITH COMMISSIONERS RUSSELL AND PAVELEK NOT PRESENT.

CAR05-44/Dyver Development, LLC.
Location: 9840 W. Overland Rd.
REZONE 34.32 ACRES FROM ‘A’ TO R-2D/DA (28.25 ACRES) AND PC-D/DA (6.07 ACRES) WITH A DEVELOPMENT AGREEMENT.

CUP05-129/Dyver Development, LLC.
Location: 9840 W. Overland Rd.
CONCEPTUAL APPROVAL TO CONSTRUCT A PUD CONSISTING OF 197 RESIDENTIAL UNITS AND COMMON AREAS ON 28.25 ACRES IN A PROPOSED R-2D/DA ZONE WITH ZERO LOT-LINE DEVELOPMENT, REDUCED LOT SIZES, BLOCK LENGTH AND STREET FRONTAGES.

SUB05-87/Union Square Subdivision
Location: On the north side of W. Overland between S. Linda Vista Ave. and S. Weideman Ave. 130-LOT SINGLE FAMILY & MULTI-FAMILY RESIDENTIAL SUBDIVISION.

Susan Riggs – Staff finds that the proposed rezone will maintain and preserve the compatibility of the surrounding zoning and the development in the vicinity. The site is located on the north side of Overland Road approximately 1/3 mile east of Five Mile Road. The site abuts Country Estates Subdivision on the north. Country Estates is developed with 1-acre lots under R-1A
zoning which allows 2.1 dwelling units per acre. The Cloogert Subdivision is on the east. This is an R-1B zone and is developed with ½ acre lots and has a density of 4.8 dwelling units per acre. Mill Creek Subdivision is across the street and is located on the south side Overland Road with R-1B zoning. It is also developed ½ acre lots. The property west of the site is zoned L-OD and R-2D. It has Kindergarten Subdivision and Williamsburg Condominiums. Within these developments are two pre-schools and a retirement home. The office and commercial development which is proposed along Overland Road will serve as a buffer between the traffic on Overland and the proposed residential development to the north. The rezone request is accompanied with a development agreement to help assure compatibility with the adjacent uses. The purpose of the PC zone, which is proposed along Overland, is to provide a pedestrian friendly design consisting of retail, office and mixed use development. The PC district may be used to demonstrate compliance with the Comprehensive Plan when the commercial use is requested but the parcel in question has not been designated on the Land Use Map for commercial use, or as a means of permitting mid-block commercial development that meets the goals of the Comprehensive Plan. This is in fact exactly what the PC zone was geared towards. The Land Use Map designates this as medium density encouraging 15 dwelling units per acre. The R-2D zone allows a density of 14.5 dwelling units per acre. The applicant is proposing 6.75 dwelling units per acre. The proposed development consists of 197 units including single family, detached and attached homes, town homes, condominiums and 4-plexes. The R-2 zone is intended to accommodate the need for medium density zoning within the city. In addition to the conformance with the Land Use Map and the Zoning Consistency Matrix, staff finds the rezone to PC and R-2 in compliance and conformance with the goals and objectives of the Comprehensive Plan. The Land Use Objective 6, Policy 2 states that: “Projects greater than 10 acres are encouraged to provide a combination of project type and densities rather than a single product type.” Objective 13, Policy 2 states that property on the north side Overland between Maple Grove and Five Mile Road shall be developed with a combination of multi-family, town homes and multi-family product types. It states that office and neighborhood commercial uses may be permitted if they are planned and developed in conjunction with residential development. Contingent upon approval of the rezone request, the applicant is also requesting conceptual conditional use approval for a planned unit development which will have 27 single family detached homes, 33 single family homes on reduced lots and 25 attached town homes, 56 condominium units and 14 4-plexes. One of the reasons that this is a conceptual approval is that we did not have floor plans and elevations but we do have pictures that will be a part of the file and the applicant, when they go before Design Review for approval and plan check if approved tonight, will need to conform to these building types in terms of materials, design, architecture. This is an example of stucco exterior of a 4-plex building with private balcony space. These are detached homes that would be alley loaded so the garages are at the rear of the property. These homes will open up onto large green space areas, significantly large. Staff finds the proposed development should be compatible with the adjacent residential uses. The single family detached homes proposed along the north and east boundaries of this development have lots ranging from 5,600 to 10,529 sq. ft. The homes will be 1 and 2 stories. The adjacent homes which abut the property on the northeast property line are setback approximately 95 ft. away from the rear property line. The homes to the north are approximately 125 to 175 ft. away from
the perimeter of that line. Along the northern portion of the property is a 45 ft. landscape buffer. It’s an easement that won’t be developed. The purpose of the proposed development agreement for the R-2 zone is to tie the development to the proposed site plan, limit the number of units to 197, maintain the proposed mix of residential use and identify amenities, which is a pool, a clubhouse and several acres of open space. Per the request of some of the residents of Cloogert Subdivision the applicant has agreed to construct only a single story office building as part of the development in the PC zone at the lower southeast portion of the site. The Mill Creek Homeowners have requested that there be a 4 to 5 ft. high berm along Overland Road. Because Overland abuts the PC zone which is a pedestrian-friendly commercial zone, staff does not agree with a 4 to 5 ft. berm as these berms are intended to screen suburban type parking malls in front, not nicely designed buildings that address the street. Staff has asked the applicant to revise the development agreement to a minimum buffer. We prefer no buffer at all, no landscaped berm along Overland Road, but we are willing to agree to a 1 to 2 ft. berm pending Design Review approval. The applicant initially had requested a 20 ft. landscape berm. The maximum setback, the PC zone is unique in that it has a maximum setback of 30 ft. The 20 ft. wide berm would leave little room after the sidewalk and landscaping for an entrance to the building so we are asking the landscape berm be reduced from 20 ft. to 15 ft. Trees will be planted approximately 20 ft. along the buffer as determined by Design Review and with 2” caliper trees. The traffic engineer is here tonight who can go into the report. ACHD did recommend approval of the project. The traffic analysis did recommend approval of the project. There are items that were highlighted in the traffic analysis that we’d like the Commission to give direction to ACHD in terms of getting these improvements to the intersection on board to make the traffic flow as freely as possible along Overland Road. I think traffic has been one of the greatest issues for the neighbors as well as the compatibility of these smaller lots next to their larger lot development. Please keep in mind that this is a site that is designated as medium density with 15 dwelling units per acre and the density that is being proposed here is considerably less than that.

Commissioner Cooper – If staff refers that there be no berm at all, what would be the recommended landscaping, if any, on the Overland side?

Ms. Riggs – A 15 ft. wide landscape buffer with no height to it. I know it’s really important to Mill Creek, they have a huge landscape berm that’s similar to Black Eagle. For the pedestrian commercial zone we don’t feel it’s appropriate. The intent of the zone is to have nicely designed buildings that don’t need to be screened by a berm. The landscape buffer is really intended for suburban sprawl projects with the parking lots coming right up to the edge of the landscape and the buildings set 30 to 40 ft. back beyond the parking lot. We want to bring the buildings to the street and that’s why there is a maximum of 30 ft. setback.

Kevin Amar (Applicant/2364 S. Titanium Pl./Meridian, ID.) – We are asking for 197 units. The property is surrounded on all sides by built subdivisions, so it’s a large infill piece and it gives us opportunity to do something a little bit more dynamic with the property and not a standard residential or commercial subdivision. Black Eagle is near here. There’s a number of office developments as well as commercial and residential. In this 1,300 feet we’re trying to transition
from on the western side a very commercial type use to a residential use 1,300 feet across on the other side of the property. On the north and east sides of the property are the single family larger lots. We plan on fencing the entire subdivision. On the east and west properties we envision a 6 ft. vinyl fence on both of those property lines. On the northern property line, as was done in Spoke Ranch and we carried on the theme because the precedence has already been set, there is an irrigation lateral that is currently left open. Our plan is to tie all that lateral and then we will be able to put a berm there with tree space a minimum of 25 ft. apart. We will continue the theme of the berm. I don’t see the sense of putting a nice berm up for neighbors to look at then blocking that view with a fence as was done in the Spoke Ranch Subdivision. That will also provide the Nampa/Meridian Irrigation District the access that they need to maintain the irrigation lateral. On the west and on the east we will be providing a 6 ft. vinyl fence and that will be done in the development’s first phase. For the balance of the subdivision as we look on the north and the east and then work into the subdivision, on both the north and the east we have less than a 2 to 1 average with our lots. I know it’s been a benchmark in the city to provide some transition. On the north we have 12 lots and the adjoining subdivision has 7 and on the east there are 15 lots proposed and there are 12 that are existing. We really tried to maintain that less than 2 to 1 average on the subdivision. The width of those lots are all 78 to 80 ft. wide so the homes that were shown, the single family detached homes with the front load garages will be what will be instructed on the north and the east. As you move interior to the project there are alley loaded single family detached homes, condominium lots and town homes which front out onto a large open space. Trying to preserve open space on this project, we actually have 20% of the total area as open space. In that we’ve got pools, walking paths, a clubhouse and basketball courts. Understanding that our density may be high, we are providing an area for the people that live here to also play. As we move into Overland Road we’ve provided some relief with commercial and office locations in that area. We have tried to work with the Mill Creek Homeowner’s Association. We came to an agreement but the only hiccup in that is we’ve agreed to do a 3 to 5 foot berm and the city does not allow that in this zone so we’ll leave it up to this body to decide if that is appropriate. We’ve agreed to construct some buildings with more of a residential look for the commercial and the office spaces so it does provide a nice feel. As you go back into the subdivision we’ve provided some multi-family units transitioning into the single family residential subdivision. We ask for your approval on this project.

Deborah Even (Representing the Clooger Subdivision, & the Country Estates/1577 Linda Vista/Boise/83709) – Our biggest concern is the traffic situation. We have two exits from our subdivision, both are on Overland. If this subdivision goes in, it’s going to put a hardship on us because we’ve already had 3 deaths and numerous multi-car accidents. There is no way for children to get across the street safely and they are all going to be going to Maple Grove School, they are all going to be wanting to come over and see new friends. There’s no way for these people to cross Overland. The fire station is moving so there’s no reason why a light could not be placed at Cotterell and Overland. It would serve a 4-fold purpose. It would serve to let people in Cloogers and Mill Creek and get onto Overland safely, it would help Union Square by slowing the traffic down, it would also eliminate having to walk over ½ mile in either direction to get to a place to cross Overland. There are a lot of elderly that walk there and again the
children. They need a way to get across that street. There is a 47% vacancy rate right now on at
the intersection of Five Mile and Overland meet in the Five Mile Plaza and Country Square, the
Fred Meyer’s store, Elms Park. We don’t understand why they are putting businesses along
there when we have a 47% vacancy rate on the corner, and they are less than a half a mile away.
It would be great if these businesses would be filled first and give them a chance to survive.
We’ve had 3 or 4 anchor stores that have not been filled yet. This does not make sense to us as
homeowners if we’ve got a vacancy rate why we couldn’t have those businesses filled first. If
we were to eliminate the businesses, we could make the lots bigger. They would be more
compatible to the acre lots on top, the side acres on the side and Mill Creek is 1/3 acres, they are
not half-acres. We would welcome neighbors, but we would prefer the lots to be 1/3 which
would be more compatible and yet still more high density than what is in our subdivision. We
would like to have the berm. It would be a traffic slowing device and I think we need that. I
don’t think we need the businesses. As far as transitional, there’s businesses they said at
Williamsburg Condos, those are not. Those are Williamsburg Business Plaza. With those
businesses there, that’s already a transition into homes that would be on the other side. We don’t
know why they need to have businesses along Overland because there’s businesses already there.
They way they have the subdivision now, the traffic will be leaving into the Schuck’s parking lot
which is another traffic hazard because it’s only 15 ft. long and it will be going right into their
parking lot and more traffic trying to get in and out. That does not make sense on Overland
either. I will turn over to you a list of people that were at a meeting that disagree with this that
are not here now because of the late hour.

Betty Chatburn (1547 Linda Vista/Boise/83709) – I back into this proposed development. I’ve
also lived at this address for 19 years. As a representative of Clooget Subdivision, I’m here to
say that we are opposed to this project. Our development where we are in Cloogets is a half
acre. To the north are the Cooper/Edmonds and Country Estates. Those are 1-acre and to the
south of us is Mill Creek and those are 1/3rd acre lots. The Dyver Development proposal is
projecting an additional traffic onto Overland at around 4,200 vehicles and around 420 from
Smoke Ranch Dr. onto Five Mile. The last report that we’ve seen, and I might add that we could
not get the staff report until Friday. There was another report that was available today. We were
not even notified of that one so it’s been very difficult for us also to make a real good
recommendation. Part of Maple Grove, Overland and part of Five Mile and Overland are
actually at an L-OSF. Susan Riggs has done an absolute fantastic job of trying to get all this
together and I don’t know how she has because every map that we’ve received, looked at and I
did go through Susan’s files, has errors. There are things not there. There are things that are
there. The Williamsburg Condominiums is actually Williamsburg Office Plaza. They share a
driveway with the Schuck’s Auto Parts that is also next to this. Weidemann is the Rocky
Mountain Subdivision. The Kindercare is actually a child care center. The one mention made of
a retirement center which is on Smoke Ranch and it shows one building on this particular map
that we were also given, actually that is an Alzheimer’s unit. Next to it is an assisted living and
this is on Smoke Ranch. This is going to be one of the major exits out of this development. I
can’t think that that would be a real safe or real wise thing to have there. I did some surveying
because they are proposing pedestrian commercial along this. We’re against it. Once I started
doing a study, on Overland and Five Mile are four commercial developments at Elm Park, Five Mile, Fred Meyer and Country Square. These are the main shopping areas and they are 185 ft. from this proposed project. That’s not very far. There’s no need for pedestrian, whatever you want to call it. On every corner, Five Mile, Elm Park, Country Square or Fred Meyer, there are 3 to 12 stores vacant. These are either store front or anchor stores. There is space available for commercial real estate development. It adds up to 43 to 47% vacancy rate in this area. Why add another 14 business commercial, pedestrian commercial businesses when you already have an area that has a 43 to 47% vacancy rate? Why would we do this? The mid-block commercial development should not go forward. This development should be for families. We want families to come to Boise. Families are going to come to Boise. We have to have a place for them. The land use map in the executive summary on page 2, 4th paragraph refers to this proposed pedestrian commercial. It is not designated in there. The high density of this land, yes. We are against it because when you look around at the surrounding area, and this map only shows a very small area. You go on out Overland, you go on up Five Mile, you go south, north on Five Mile, Maple Grove, those lots are anywhere from half-acre, acre to at least 8,000 sq. ft. Mr. Amar did mention the lot sizes would range from 5,600 sq. ft. to 10,529 sq. ft. That’s a true statement, but if you look at this proposal, there is one lot, one lot only that is 10,000+ sq. ft. There are only 3 lots that are 8,000+ sq. ft. All the rest are either 5,600 or 6,000 sq. ft. The 5,600, although into Coogert’s Subdivision, the 6,000+ all go into Country Estates. We want children. We want families. We want the elderly. We want people to come and enjoy our neighborhood and the amenities that we have. The pedestrian commercial, again, 185 ft. from Schuck’s Auto Park, the stores on Weidemann and the Five Mile shopping area, I truly cannot that this is something. We want neighbors, yes. We want housing. We want people to come in, but we would really like it a little more compatible to existing neighborhoods. I counted up those single family little skinny shotgun houses. There were over 100 of them in there. Maybe we could have a few less and a few more houses that will invite families. We need families in Boise. That’s what we are about. We also need, if you looked at Susan Riggs’ drawing, there should be more trees in there on residences. There are not. It shows no trees to the west. It shows the berm on the north where the canal is and I really didn’t understand whether that canal is covered or not, and then it shows little pockets. I think that this proposal needs to be revisited.

Betty Bermensolo (Southwest Ada County Alliance/1970 Canonaro Way/Boise) – It’s very important that I convey to you that we’re very, very much opposed to additional pedestrian commercial, additional commercial of any kind at this juncture. I think that’s where staff and this neighborhood collide because we see it as an area that we live in day in and day out with a struggling 5-corners as it exists right now. We would have no problems with a mixed residential use. We would like to see substantial berming along Overland Road that would be similar to Mill Creek which is across the street. We’d like to see residential development to the north of that, but strictly a residential development. Again, we know that the Comprehensive Plan asks for a mixed residential use. We’re not opposed to that but we should also be looking for some compatibility between two very long standing existing neighborhoods that have one acre and half-acre parcels and then when you look at the map, I think this really clearly states the lack of compatibility in those adjacent lots. Let’s just talk about those adjacent, interfacing lots. I think
that there was an attempt to make a 2 to 1 ratio, but there is a huge difference between the size of the lots that exist right now and the size of the lots that are being proposed. I applaud the developer for putting a substantial amount of open space centrally located, but with the idea that this hopefully will be exclusively a residential neighborhood, we’re hoping that every bit of that open space is going to be utilized by residents. I think that it’s very clear from the Comprehensive Plan when you go to Chapter 8 in terms of land use, you will see that it indicates that neighborhood and community shopping centers are most appropriately located at intersections of arterials. It’s Policy #2. When I worked on the Comprehensive Plan back before this was adopted, there was a lot of concern about stripping out arterials and one big warning that was raised by someone that worked on staff at Boise City was cautionary that a pedestrian commercial could be a wolf in lambs clothing. It could perpetuate that strip commercial. Those of you that remember Carla Olson when she was with the City, there as a great concern and appreciation that we have a buffer, an office buffer, on what is the Williamsburg Condominium Office Complex, so it would justify a step down and a departure from this concentrated regional retail area and set the stage for a residential area that would have townhouses and a mixture of residential uses. Again, I feel that we are running into a conflict here because we live there. We see the huge struggling retail vacancy that exists there. It’s substantial if you come out to that area. It’s very obvious if you drive around that the 47% vacancy rate is a true fact. It cannot be ignored. We know, as residents out there, what we need. We need residents in that area to support our struggling regional retail center. We don’t need additional competing office and retail. I am a firm believer in adhering to the Comprehensive Plan. There are other items in the Comprehensive Plan that speak to avoiding strip commercial and actually avoiding them; Objective 4 on that same page goes to say that you want to select those areas to minimize adverse impacts on the street system in the adjacent uses. We feel that putting additional retail and office uses will do just that. They will severely impact what is struggling to exist right now. We also have a great deal of interest in seeing this parcel fully developed versus a weed patch along Overland Road. Until the market provides tenants for that additional retail and office use, that’s what the developer indicated would happen, that it would remain empty until there were tenants. The Southwest Ada County Alliance has had, from past experiences where a particular zoning was granted to a developer and it was built with a disjointed theme and the architecture certainly was less attractive because there was nothing that tied it together. We would prefer substantial berming along Overland. I’ve had two accidents on Overland and I really think that what Mill Creek has conveyed to me and what we’d like to see is something that berms that area, that frontage, that 1,000 ft. frontage of Overland to calm traffic. I appreciate staff’s interest in coming out to see that area, but I think there is a real pre-occupation going on here with trying to go with a pedestrian commercial use when there is absolutely no need at this point.

Daniel Even (1577 Linda Vista/Boise/83709) – They are proposing to put offices, retail, pedestrian, whatever behind me. I’m here today that I’m seeing a lot more pedestrian traffic on the sidewalks right next to the house. I’ve been a resident of Idaho for 54 years. I’ve seen a lot of changes in this town from the city to the county. I would like to see that if the developer does go through and you let this go through, I would like to see an 8 ft. brick wall shading this away from my property. I do not wish to see businesses behind my property. The rest of the
subdivision, he’s saying a 6 ft. vinyl fence. A 6 ft. vinyl fence, they’re having 2-story homes and we’re looking right in their back windows. They’re looking out their back windows into our homes. They are only supposed to be 15 ft. from the back fence line. To me, that’s not living. You need to be away from your neighbors a little bit. I strongly suggest that if the pedestrian commercial goes in, which we do not wish to see, I would like the builder to have to build an 8 ft. masonry wall like Albertson’s has, McDonald’s has.

Troy Van Houten (Representing the Mill Creek Homeowner’s Assoc.)/9720 W. Bridgegate/Boise/83709) – In your packet you should have a copy of the letter that we sent expressing the views of the Mill Creek Homeowners. The developer met with us several times this fall to discuss the development. We recognize there are many concerns regarding the development such as density, zoning and architecture, however today I’m just here to focus in on just a couple of particular issues. I’d like to speak to the look and feel of this development. Should all be familiar with the area where we have two benchmark developments featuring sprawling berms where no expense was spared in regards to the landscaping. These two developments are Mill Creek Subdivision and Black Eagle Center. 10 years ago when we were facing the Black Eagle Development and we fought for that berm, that’s been challenged more than once, just recently with the banner bank which we did win. That berm has remained. We’re concerned about the continuity along Overland Road where a thousand feet of frontage would be jeopardized. I’d like to speak to staff’s point with the pedestrian commercial. I think the concern is raised without having a berm. If you look at the recent development across from Walmart, directly across from Kentucky Fried chicken there’s some pedestrian commercial that was developed, the Moneytree and Primo’s Pizza. There is no berm there. There is landscaping but no berm and without the berm what you see on the backside of those buildings is utilities because there’s nothing to hide it. Representing the Mill Creek Homeowners’ Association, again assuming that if there is commercial at all on the frontage of this development, we do not want to see any utilities or those buildings. I think that it’s clear that both the Mill Creek Homeowners’ Association and the developer are in agreement that a 3 to 5 ft. berm would be acceptable. There’s no opposition on either side. It seems that the only opposition is with the staff’s recommendation and that’s a concern. The 1 to 2 ft. high berm is really only just a third of what we would really like to see and that’s just simply not acceptable. In our meetings with the developer, we do have that verbal agreement and proposal of the 3 to 5 ft. berm. That would be acceptable and we do not think that is unrealistic to grant that request. In regards to the commercial development along the front of Union Square, many folks are here to speak whether or not the commercial development is appropriate. If the commercial goes through, I would like to propose that the strict architectural guidelines that have been shown today and are also included in the Mill Creek’s proposal are mandated so we do not have buildings that look too much like commercial buildings, that they look more with pitched roofs with masonry and like what we have proposed with the pictures that we submitted.

Eugene Davis (1481 S. Linda Vista Ave./Boise/83709) – My concern is the density and the appearance of the center of this. It appears to me to look like an apartment complex. They have
a lot of duplexes in the middle there and the density of that is what my concern is. How many
duplexes or 4-plexes makes up an apartment complex?

Ron Dalby (1528 S. Linda Vista Ave./Boise/83709) – My concern is the density. The transition
area isn’t as large as I think it should be, also the traffic. With the two exists out of there it’s not
usual to go to the end of Linda Vista in the morning at 8 to 9 and it’s not unusual at all to
spend 5 minutes there. A lot of times it’s a lot easier to turn right and go to Five Mile and all the
way around than it is to cross 2 lanes of traffic. I’ve been rear-ended on Overland. The traffic is
terrible. To put I don’t know how many more cars on that street coming out on Linda Vista, but
if any of you have been in the Five Mile area and ever tried to get out of a 1-lane deal at
Albertson’s, it’s next to impossible trying to get out onto Overland unless you turn right and go
to the streetlight. When she said that these back houses are going to be a 115 ft., 120 ft. from
the existing houses on Linda Vista, 15 ft. of it is in their back yard, 100 ft. of it is in the back yard
of the people on Linda Vista and Hackamore. In my mind it’s too much density and too close.

Robert Smith (1433 S. Linda Vista Ave./Boise/83709) – I’m directly east in the Cloogert
Subdivision. I agree with the comments that have been made concerning compatibility with the
existing neighborhood. The density of the proposed Union Square, the lot sizes are much
smaller than the lots that are adjacent to the north and to the east. Also the density is a
consideration. The traffic on Overland has already been mentioned. It’s really a worry, but I
wonder about the people who eventually will live in this new subdivision. When you drive
through these new subdivisions there’s no place to park. They have the garage, but the garage
ends up being living space usually because the homes are so small so the cars end up out on the
street. There’s very little front or back yard so those cars end up parked everywhere you can fit
them on the road. There’s no place to put them or boats, trailers, etc. I feel sorry for the people
who will be living in there. Where will you have your dog? There’s no fence. Do you just
chain them up in the front yard? We’ve noticed that in some subdivisions. There’s just no room
for the people in there.

Glen Weaver (10001 Hackamore/boise/83709) – I live directly north and in back of this
subdivision. I guess I could beat this horse to death and tell you how much we think of the
density. It’s not in harmony with anything around it. The biggest problem you’re going to have,
besides Overland Road, is we have paralysis right now in the afternoon on Five Mile Road.
Traffic has backed up from down on Emerald all the way up across Overland at times in the
afternoon. I don’t know how you are going to spit more traffic out of this Smoke Ranch Road
onto Five Mile. We can’t get out of Hackamore and Martindale now across Five Mile in the
afternoon. You’re taking your live into your hands. That’s a single lane road each way. Smoke
Ranch is just going to add to the problem.

Kim McDonald (9905 Hackamore/Boise/83709) – My biggest concern is trying to go out Five
Mile because we either have to go out Maple Grove or Five Mile out of our exists. I have to go
across Five Mile every day and there’s times I literally spend 5 to 10 minutes just waiting to get
across 1 lane of traffic. It is backed up from Emerald. My other concern is behind our
properties, with those real small lots, it would be nice if we could maybe make the lots the same width and half the depth. There’s a number of us that have single story houses there and if they could build single stories back behind our houses, we do have a buffer there but we’d still have people looking out of a 2nd story down into our family rooms.

James Hunt (9847 Hackamore/Boise/83709) – We’ve lived in our home for 20 years and love our home, neighborhood and neighbors. We love our lifestyle. As this project is presently proposed, I’m against it’s approval. When we moved into our home 20 years ago I was very interested in what would be the future of that farmland behind my house. I called the county and was told it was zoned R-1A, the same as our neighborhood. The person I talked to said it would eventually be subdivided for another neighborhood just like ours. I asked about the possibility of a rezone and was told that was always a possibility. I was told at that time that if it were rezoned that there would have to be transition lots adjacent to our properties. He explained that transition lots meant that we would have a row of 1-acre lots behind us to transition to whatever was built in the rest of that area. I realize that was 20 years so and that we were in the county and not the city. However, I do not believe that a 6,000 sq. ft. lot is a reasonable or a valid transition to lots which are over 4,300 sq. ft. This is the first item I believe should be changed in the current plan. I believe that we should have a minimum of half-acre lots adjacent to our property. Our lots are long and narrow. Make the transition lots the same width of ours but half the depth. I believe we, as a group, would be very happy. In one of your previous projects tonight you had a 4.8 acre thing and you reduced it to 10 lots. That’s half-acre lots. Why can’t we have the same thing and that’s what I would propose to you. My second major objection to this project is the type and size of homes proposed. The small attached housing proposed is not compatible with the adjacent neighborhoods. The property under consideration is surrounded by 3 neighborhoods. Ours is 1-acre lots and the other two are half-acre lots. The one across Overland Road is a very nice subdivision with very high quality homes, the Mill Creek Subdivision. These homes are well kept with very nice landscaping and pride of ownership. I do not believe it is proper to put these little attached homes in the middle of these fine subdivisions. I’m sure there’s a place for this type of home, but this is certainly not the place. I believe that you and I as citizens of the City of Boise have an obligation to do what we can to make Boise a better place to live. If this project is approved, as proposed, we have failed in our duty. We must improve our city, make Boise a better place to live and enhance the lifestyle we all enjoy. This present proposed project does none of these things and I believe that you as a Planning & Zoning Commission have an obligation to the citizens of Boise to reject this proposal as planned. Send this project back and tell them to build us another Mill Creek Subdivision on that property.

Doug Jayo (1323 S. Five Mile Rd./Boise/83709) – My sympathy goes out to the applicant. He buys a piece of property, goes to Boise City and asks them what they would like to see on it and in the end they tell him they’d like to see 14 units per acre. I talked to the applicant a few days ago and he said he didn’t want to submit that but he’s trying to get the project approved so he came in with a project at a higher density when it wasn’t his intent to start with. A lot of the property that I have here that this is an infill area. It’s surrounded on 3 sides by primarily residential and it’s definitely an infill project. I just don’t think it’s fair to come in there for an
infill project and request 14 units per acre. I think if the city is going to want this kind of density they should go on the outskirts of town out to the south of this area and set the precedence for it if they want 14 units per acre. They won’t have any neighbors around to complain. To come in with an infill project, I feel it’s stabbing the surrounding neighbors in the back to come in there and ask for 14 units per acre. It just doesn’t belong. On top of that they want the developer to bring in a mix of rental units in this. That’s what I really don’t understand. Why would they ask to put in rental units with homeowner occupied units? In my estimation it doesn’t go at all. If you want to drag down property values in the long run, that’s a good way to do it, mix in a bunch of rental units with owner occupied units. There’s a bunch of 4-plexes proposed in there. I don’t know of any 4-plex units within 2 miles from this project. It just doesn’t fit into this area. I don’t think the rental units make a very good transition into the property I own across the street.

Tony Cequerra (9763 W. Klondike/Boise/83709) – On the east perimeter there’s probably 17 lots. I don’t see a tree. They’re going to put up a little 6 ft. plastic fence. That’s going to be the only greenery I’m going to see. My property sits at a 45 degree angle so I’m going to be looking across 4 houses when I look out to the south. For the past 16 years I’ve seen the Owyhees every morning. I’ll never see them again. I can’t see why the houses on the eastern perimeter can’t all be 1-story, 1 house. As far as traffic safety, my wife’s caused 2 accidents out on that road already. When we come up Overland Road to turn into our subdivision, we always have to come to a full stop because it’s a very square, small turn. She’s caused rear-end accidents behind her because she’s slowing down for traffic.

Dave Szplett (P.O. Box 73/Boise/83705) – I’m with Washington Group International. We’re the firm that did the traffic engineering on this site. We did it two times because your staff made me jump through lots of extra hoops. We could talk about traffic all night and I suspect so could most of the people in the audience. The bottom line is that Overland Road does have lots of cars on it and this site will add to it. However, when we ran through 4 or 5 options with this site, they all generated the same amount of traffic. Having the commercial on the site actually allows the 20% reduction because they are pass-by trips. People are going by anyway so we’re actually a little bit better than we could have been. The project will generate over $400,000 of the impact fees to ACHD which will be enough to help them fix at least one of your problem intersections there. The signal is an issue that keeps coming up. If the site had only one access onto Overland Road, there would only be 105 left-turns an hour which is the bare minimum that you would ever have for a signal. We’d be stopping 2,300 cars an hour to help those 105 out and ACHD would never accept that. The site has two driveways planned so the 105 is going to be 52 at one, 53 at the other so you’re at half of that total number and there’s no way you’d get a traffic signal. There’s national data that has 12 different things called warrants and this doesn’t meet any of them. ACHD didn’t even bring it up in their staff reports. Overland Road is built out the way it is now and the traffic will increase, there’s no getting around that. We did recommend that the applicant have improved turns and a separate right turn lane for the main site entrance which will help decrease the potential for accidents and make it safer than normal driving with no turn lanes. The one issue that I do have is about the public street connection on the west side. We don’t feel that there’s enough residential traffic to justify it as a public street. I would like to
keep the driveway onto Overland Road of course. By having a tie-in I think you’re going to be encouraging commercial traffic to drive through this site to get out to Smoke Ranch.

Commissioner Fadness – One of the residents brought up that they would like a traffic signal at Cotterell. Is that one of the places that ACHD would look at as worthy of a possible signal?

Mr. Szplett – I was an engineer at ACHD for a long time and I remember us looking at that then and I know it was turned down at that time for signal spacing. ACHD now only allows signals at the half mile spacing.

Commissioner Fadness – Did I hear someone testify about a Level of Service F at one or all of these intersections? Is that true?

Mr. Szplett – Maple Grove and Overland, Five Mile and Overland are both true. That’s because there aren’t enough lanes. This project, if ACHD, could fix one of them with just the impact fees from this site and no tax dollars. Oddly enough, the people making a left turn into this site only have a Level of Service C because the people opposing them have large gaps in the traffic. The outbound, I agree, is an F, but if you had one car coming out of there it would be an F. It’s because there are too many cars on Overland Road.

Commissioner Brunelle – What would be the effect on the level of service with a traffic light at Cotterell?

Mr. Szplett – It would help the 105 people coming out, but you’d make the 2,300 on Overland Road go through one more F so you’d be hurting 2,300 people an hour to help those 105 coming out and you’d lose a second exit because your spacing would be too short from the signal.

Deborah Jones (1263 Cotterell/Boise/83709) – We do not abut to the development directly, but that’s not even important. This is our neighborhood. We have resided at this address since December of 1980. We have seen Boise transform before our eyes. We have participated as both interested and concerned citizens in the community in which we live regarding growth and development and have been in this building numerous times as advocates for quality planned compatible growth for the area in which we live. We consider ourselves progressive people who believe in responsible growth, not in commercial sprawl or development that is compatible with an area of pre-existing developments. Such is the case with the proposed development before you tonight. This community is being asked to look objectively at this proposal. We have, and we cannot support any more commercial development here. This is a residential area period. We have 4 corners of regional business that includes banking, shopping, and office to the west. To the east we have more than ever expected additionally Black Eagle is now beginning development on its commercially zoned property on the northwest corner of Overland and Maple Grove. We do not need any more commercial development. It is not responsible to do so. Any pedestrian commercial development in this area is inappropriate. How close and how much convenience do you need to provide people or do we need to give this as an excuse for a
There was a place and a time for this type of development and there still is a place and a time for this development, but it is not here and not in this area. I can think of multiple areas where commercial pedestrian would be very appropriate. To look further southwest where there are bookoo amounts of residential going up and absolutely no pedestrian commercial services to those areas is an example of where it would be very appropriate. We urge you to turn down this proposal as it is in favor of development that is compatible with the area, residential that would be supporting existing businesses, neighborhood services. I want to mention that we received an e-mail where staff had suggested that the developer consider a request to rezone to R-1C. The comment being that it would it would meet all the requirements for the R-1C zone and the density is 8 dwelling units per acre and the neighbors may be more comfortable with that request. That would be another option I would urge you to consider.

Shawn Nickel (Representing the Applicant/839 E. Winding Creek/Ste. 201/Eagle/83616) – In addition to some of the Comprehensive Plan Policies that staff presented in their report, I would like to point out a couple more. Under residential development one would be the establishment of single family dwellings that minimize garage dominated street scenes by considering incentives and special allowances for alley loading. This development definitely has that type of product within it. Another policy is the requirement for open space. We have multi-family developments that can be utilized by all residents. In addition, require the residential street scenes to provide variety and modulation, design and placement of homes. That design with the alley-loaded product, the attached units, meets that policy. Under the Land Use section, Policy 8.5, offices uses are appropriately located along arterials and collectors and may often be used as buffers between intense residential and retail uses. Objection 8.6, residential land uses shall be designed and provide a variety of housing densities, product types and affordable costs and shall be located and distributed in a manner that’s compatible with adjacent uses and promotes transit and pedestrian activity. The pedestrian commercial does provide for that. I think most importantly is Policy 6 under the Land use section. It states: “In the area east of Five Mile Road a combination of residential products and density shall be permitted ranging from 1 to 25 units per acre. Additional neighborhoods serving commercial facilities may be permitted in this area.”

Kent Brown (1500 E. Eagle/Eagle/83616) – My comment has to do with the staff’s recommendation of the access to the commercial being a public street. Boise City Code, for the subdivisions, encourages the use of private streets instead of having to have everything be public. The applicant is willing to put in an access and I’m not aware of any city policies that would mandate that a public street be put in for that purpose.

Commissioner Cooper – Will staff respond to the question about having the public access to the west as opposed to private?

Ms. Riggs – Yes, we did want to have the connection through there to be a public street connection. I believe ACHD, in their modified staff report, has also required that these be public streets. We want the public street to also come through and provide a connection onto Overland Road. This will give a greater opportunity for people to access, reducing the number of trips
coming into the access further to the east. ACHD did also comment about this being a public street in their staff report. Staff feels very strongly that there should be a public street going through there to provide not a driveway with parking backing out into an area where people would access into that site, but it will reduce this intersection for the trips coming out and making a right-hand turn. It’s going to reduce the level of service from F to a C with the addition of the public street. By creating the public street that intersections Overland Road at this location, the site would have two public roadways that would intersect Overland Road and would have an additional public street access through an existing stub street location at the west property line which is Smoke Ranch Dr. The addition of another public street would benefit the site with the distribution of traffic and has a potential to reduce the queue length within that development. It will certainly provide a better access, ingress/egress, out of the driveway by having another public road connect through. This kind of almost completes the loop going through here with the public access. This is a large development. You’ve got one public road coming out on Smoke Ranch. This would just provide better circulation throughout the development and it’s easy to do.

Commissioner Brunelle – Is there a map that actually shows the proposed zoning? Is it R-2 basically?

Ms. Riggs – Correct. It’s PC along (here) and up through this area.

Commissioner Brunelle – What are the lot sizes of the lots at the north end of the property?

Ms. Riggs – They range from about 5,600. The lots along the north side of the property go from 5,600 sq. ft. upwards to, I know that the largest lot is on the east side going to 10,529 sq. ft.

Mr. Amar – The lot sizes on the northern boundary range from 400 sq. ft. to 8,600 sq. ft. and that’s exclusive of the common lot. We have the option of including that common lot into those lots and you can push those lots into about 10,600 sq. ft. average. The reason we did not do that was to provide a buffer, but also to provide a homeowner maintained common lot so that buffer always maintains the look and the feel as we initially put it. Those lots are 6,400 or 8,600, the real side is significantly greater do to the separation with the common lot.

Commissioner Brunelle – Then the ones along the eastern perimeter?

Mr. Amar – 5,600 sq. ft.

Commissioner Cooper – So then on the north side the lot widths are what?

Mr. Amar – 80 ft. wide.

Commissioner Cooper – Is the easement for the canal 30?
Mr. Amar – 40 ft.

Commissioner Cooper – So that’s another 3,200 ft. in the back of each lot.

Mr. Amar – Correct.

Commissioner Brunelle – What about the skinny lots on the interior sections?

Mr. Amar – The lots on the interior sections, the ones that are interior to the condominiums are 2,600 ft. Those are the attached units and that is similar to what was done in Smoke Ranch so we followed a concept that was built in Smoke Ranch and actually looks very nice.

Commissioner Brunelle – What’s the width of those lots?

Mr. Amar – They would be 26 ft. wide.

Commissioner Cooper – There’s a Smoke Ranch Drive so where is the Smoke Ranch development you keep talking about. Is it adjacent?

Mr. Amar – Smoke Ranch development is adjacent directly to the west of this property. The Smoke Ranch development has a mixture similar to this in that the single family detached lots are also 80 ft. wide and generally this size and then it has interior lots that are condominium or attached units and they are also similar to our condominium lots within this subdivision. The Smoke Ranch Subdivision is actually about 6.7 units to the acre, very similar to the density we have with this project.

Commissioner Fadness – If the new zoning is approved, it allows up to 15 dwelling units per acre and this proposal is 6, is that correct?

Ms. Riggs – Correct. Because this is with a development agreement, the R-2 zone is actually more restrictive. The R-2D zone requires Design Review, the R-1C zone does not. At this point with a development agreement that limits the density and it’s 6.75 dwelling units per acre, it doesn’t matter what you call the zone but it’s important to have the “D” designation after it because all this will go through the Design Review Committee for review as well as all the landscaping. This is a conceptual plan. We didn’t ask them to provide a landscape plan for us at this stage. The Land Use Map does call for 15 dwelling units per acre.

Commissioner Brunelle – Lots on the east end, the 5,600 sq. ft. lots? What are the dimensions?

Mr. Amar – The widths are 70 ft. wide and depths are 80 ft. deep.
Ms. Riggs – I would really like to encourage that the connection off of Overland Road be a public street and I think that’s also a condition of the subdivision report. They’ve also asked for a public street connection there.

Mr. Amar – When we first met with Boise City Staff, this project created an interesting problem. I’ve rarely had a project where I’ve presented the project and been asked to come back with a significantly greater density than I was presenting. Knowing and working in this area in Ada County, I knew that a higher density of 14 units to the acre would certainly cause problems. That’s an apartment complex and that’s not something we wanted to propose. Working with staff we were able to come up with a density and a compatibility in this area that is consistent with the Comprehensive Plan as this project is 100% compliant with the Comprehensive Plan, but also gives a density much less than the 14 units to the acre. I understand with the R-2D we are requesting up to 14 units to the acre, but as Susan stated, we have a development agreement that will restrict us to what we are showing here tonight. We are very comfortable with that. We understand what we want to propose and we certainly want to work as much as we can with the city and the neighbors. Some of the questions that came up on this project with respect to the landscaping plan or the conceptual plan that we have, this landscaping conceptual plan only shows the landscaping that will be completed during the course of development. It does not show all of the trees, bushes and shrubs that will be required for each individual home. Through the CC&R’s we can make this a condition of approval if you like to require each individual home to have a front yard that’s landscaped prior to occupancy including sod, sprinklers and two 2” caliper trees and 5 gallon bushes in a significant amount. In addition we also rear yard landscaping that will be required to be completed prior to 6 months of occupancy. Obviously during the winter months there’s variances granted for that. In talking to the Mill Creek Homeowners’ Association, one of the things that we’ve added to the CC&R’s is that anytime landscaping should die, it must be replaced with at least that which was originally installed. That was some problems that they had had. We’ve appreciated working with Troy and the homeowners’ association with Mill Creek. We would request that we be allowed to put in a berm that would be compliant with their request, the 3 to 5 feet. We understand that the city has a standard for the pedestrian commercial zone, but given the nature of the area, the buildings will certainly not be harmed. You still will be able to see those from the road and there’s a number of connections that pedestrians can make to this property so we feel that is important. With respect to the access, we are not proposing to eliminate the additional access onto Overland. We are only proposing to make it a driveway as is similar to the commercial developments throughout the city. So there will still be access and it will work as a secondary access, but it will be a private driveway rather than a public street and with that comes the ability to do additional parking within the subdivision. It will also provide some traffic calming as you come in because there will be people parked there rather then a public road so it will slow the traffic into the development. With respect to traffic, I understand this as a heavy traffic area. I too have been in the valley for many years, but Overland Road is built out as the Comprehensive Plan contemplated when the Plan was approved. It’s even working the way that the Comprehensive Plan would hope that it works. It will only get better as more north and south connections are
made and increased, Five Mile and Overland being widened to 4 or 5 lanes. We request your approval.

Commissioner Fadness – What are you proposing for a buffer between the pedestrian commercial and the residential? One person testified he would like to see a 4 ft. high brick wall. Is that going to come later in the plan?

Mr. Amar – I think that person was talking to the east. On the eastern boundary we are proposing the fencing. We spoke to staff about a taller fence and that is not supported by the policies of the city. Between the pedestrian commercial and the residential is where we’ve put some of the multi-family and in that multi-family there will not be fencing. There will be private patios as required and is necessary in those units, but it will be landscaped and maintained by a users association so that buffer will be provided with that transition.

COMMISSIONER COOPER MOVED TO APPROVE CAR05-44.

COMMISSIONER BRUNELLE SECONDED THE MOTION.

Commissioner Cooper – I agree with staff that the PC zone is appropriate for this location. I think this development is actually innovative in the way that it uses the commercial area as a buffer to the residential and then in turn puts the smaller lot sizes on the inside where they are buffered by the larger lot sizes. I also tend to side with staff that when you do the PC zone, putting commercial buildings up to the street, doing a berm defeats the purpose. Berms are for hiding parking in front of buildings, not where you have the building up to the street.

Commissioner Brunelle – If we were to take up lot size since that appears to be a part of the development agreement, would that be a part of this decision on the zoning decision?

Commissioner Fadness – Staff is nodding yes. Lot size would be part of the rezone, not the CUP.

COMMISSIONER BRUNELLE – I WOULD LIKE TO MAKE A SUBSTITUTE MOTION TO APPROVE CAR05-44 WITH THE FOLLOWING CHANGES. ONE WOULD BE ON THE EAST SIDE OF THE PARCEL THE LOTS ADJOINING THE EAST BOUNDARY NEED TO BE A MINIMUM OF 8,000 SQ. FT. AND A MINIMUM OF 100 FT. IN DEPTH. A BERM SHALL BE BUILT ALONG OVERLAND ROAD.

Ms. Riggs – The berm is in the development agreement at 1 to 2 feet.

COMMISSIONER BRUNELLE – THE BERM SHALL BE 3 TO 5 FEET.

THE SUBSTITUTE MOTION DIED FOR LACK OF A SECOND.
COMMISSIONER COOPER – I WOULD BE WILLING TO AMEND MY ORIGINAL MOTION TO INCLUDE THE LOT SIZE CHANGE SUGGESTED BY COMMISSIONER BRUNELLE, BUT NOT THE 3 TO 5 FT. BERM. I WOULD APPROVE THE 1 FT. BERM AS RECOMMENDED BY STAFF.

COMMISSIONER BRUNELLE – I WILL CONCUR WITH THAT.

MOTION TO APPROVE CARRIED WITH COMMISSIONERS PAVELEK AND RUSSELL NOT PRESENT.

COMMISSIONER FADNESS MOVED TO APPROVE CUP05-129 TOGETHER WITH THE STAFF’S CONCLUSIONS OF LAW AND FINDINGS OF FACT.

COMMISSIONER COOPER SECONDED THE MOTION.

COMMISSIONER BRUNELLE – I think we need to do something about placing a wall between Mr. Evan’s house and the commercial section since that abuts it right up on Overland Road. I WILL OFFER A SUBSTITUTE MOTION TO APPROVE THE CUP WITH AN ADDED CONDITION FOR A STONE OR BRICK WALL THAT PART OF THE RECORD THAT MR. EVAN TESTIFIED ABOUT.

COMMISSIONER FADNESS – THE MAKER OF THE MOTION WILL CONCURRE WITH THAT.

COMMISSIONER COOPER – THE SECOND WILL CONCUR ALSO.

Commissioner Fadness – I do realize this development is more dense than the developments around it, however it’s far under what the zoning would allow for this size of development. We’re getting to the point, in the City of Boise, where nearly all of the projects we are hearing for the last 6 months or more, the density is higher. We are seeing 3 and 4-level town house/apartment type projects, condominiums going in in the middle of single family residential. Boise faces a choice of more sprawl taking up more farmland, building more roads, creating more pollution, more inversions, or taking the lots that we have that can serve as infill and trying to achieve a balance of something that isn’t overly dense and also something that will meet the demands of a growing city. I see us faced with a lot of developments like these that will be substantially higher in density then their surrounding neighborhoods. It isn’t a pleasant choice for anyone to make, but it’s part of being a growing city. I also believe this is a quality project. The variety, the attached homes versus the single family homes versus the duplexes is kind of what we are trying to achieve so that we avoid whole neighborhoods that have nothing but duplexes or whole neighborhoods that have nothing but high rise apartment buildings. The commercial aspect, I’m not as convinced on that. I am concerned about the vacancy rates along there, however I like the idea of having commercial nearby to residential areas, especially
residential areas as dense as this is because you can cut-back on traffic if you have commercial
that’s within walking or biking distance of residential developments.

Commissioner Cooper – I’d add that we often hear the comments that if my neighborhood is
single family that’s what everything around me should be and we also talk about families, but I’d
like to make the point that when your kids are grown up and moved away, you’ve got this big
place and you love your neighborhood and there’s no other choices for staying in that
neighborhood because everything is the same house that you have. I’d make the point that
having a mix of housing types gives options for people whose kids have grown up and moved
away.

MOTION TO APPROVE CARRIED WITH COMMISSIONERS PAVELEK & RUSSELL
NOT PRESENT.

Ms. Riggs – With regard to the 8 ft. wall, is that to extend the whole length of the east property
line or just in the segment of the Mr. Even’s house?

Commissioner Brunelle – Not the whole portion, just the portion behind Pete Even’s house and
the part that would have the parking and 2 commercial buildings.

Commissioner Cooper – It would be where the commercial parcel portion is.

COMMISSIONER COOPER MOVED TO APPROVE SUB05-87 ALONG WITH THE
FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE CONDITIONS OF APPROVAL.

COMMISSIONER BRUNELLE – I WILL SECOND NOTING THAT THAT AS AMENDED
BY THE DEVELOPMENT AGREEMENT WHICH CHANGED THE LOT
CONFIGURATION.

MOTION CARRIED WITH COMMISSIONERS RUSSELL & PAVELEK NOT PRESENT.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
February 6, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Doug Cooper, Andy Brunelle, Doug Russell, Amber Van Ocker, Lauren McLean & Anthony Shallat.

Staff Members Present
Hal Simmons, Lance Evans, Cody Riddle, Susan Riggs, Scott Spjute, Vicki Van Vliet, Teresa Sobotka (Legal).

DRH05-00387/Joshua Rundus
Location: 100 N. 8th St.
APPEAL OF THE DESIGN REVIEW COMMITTEE’S DECISION TO APPROVE A 6-STORY, 64,938 SQ. FT., 81-UNIT MULTI-FAMILY BUILDING IN A C-5DDC ZONE.

COMMISSIONER COOPER MOVED TO REMAND DRH05-287 BACK TO THE DESIGN REVIEW COMMITTEE’S HEARING OF MARCH 18, 2006. COMMISSIONER VAN ACKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP05-00169/Fred Schuerman
Location: 12488 W. Fairview Ave.
CONSTRUCT A DRIVE-UP FOR A PROPOSED FAST FOOD RESTAURANT IN A C-2D ZONE.

CUP05-00073/Mod #1/DBSI Development Services, LLC.
Location: 7494 W. State St.
MODIFY A PREVIOUSLY APPROVED MASTER SITE PLAN AND CONSTRUCT A 2,982 SQ. FT. RETAIL BUILDING IN PLACE OF A 1,467 SQ. FT. DRIVE-THRU RESTAURANT IN A C-4D/DA ZONE.

CUP05-00165/Boise City MSA, LP DBA Verizon Wireless
Location: 12877 McMillan Rd.
CONSTRUCT A 7,101 SQ. FT. BUILDING EXPANSION OF AN EXISTING FACILITY IN AN A-1 ZONE.
CAR05-00040/City of Boise
AMEND CHAPTER 7, SECTION 10 OF THE BOISE CITY ZONING ORDINANCE TO SET FORTH CRITERIA FOR NEW OR EXPANDED HISTORIC LIGHT DISTRICTS, INSTALLATION & MAINTENANCE CRITERIA AND GENERAL SPACING REQUIREMENTS.

CAR05-00057/City of Boise
Location: South and west of the Boise City Airport, south of Gowen Rd.
ANNEX 2,071 SQ. FT. OF GOVERNMENT OWNED LAND WITH ZONING DESIGNATIONS ASSIGNED EQUIVALENT TO THE EXISTING ZONING UNDER ADA COUNTY TO INCLUDE A-2, M-1D AND M-2D.

SUB05-00121/Wiscombe Subdivision
Location: On the south side of Sunflower east of N. Hampton
5-LOT, RESIDENTIAL TOWNHOUSE SUBDIVISION.

SUB05-00117/Cosby Subdivision
Location: 2705 W. Malad St.
2-LOT COMMERCIAL SUBDIVISION.

SUB05-00122/Rebecca Emogene Subdivision
Location: On N. Johns Landing Way west of Collister & north of Bloom.
4-LOT RESIDENTIAL SINGLE FAMILY SUBDIVISION.

SUB05-00118/Salome Terrace Subdivision
Location: On N. Shamrock Ave. south of Tahiti St.
5-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSION VAN OCKER MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND STAFF’S RECOMMENDED CONDITIONS OF APPROVAL.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR05-00061/WestMark Credit Union
Location: 3047 S. Bown Way
REZONE .533 ACRES FROM PC-D TO C-1D.

CUP05-00111/Westmark Credit Union
Location: 3047 S. Bown Way
REQUEST A DRIVE-UP WINDOW FOR A PROPOSED BANK WITH A SHARED PARKING AGREEMENT AND SETBACK VARIANCES IN A PROPOSED C-1D ZONE.

CVA05-00051/Westmark Credit Union  
Location:  3047 S. Bown Way  
REQUEST A VARIANCE TO CONSTRUCT A CANOPY WITHIN THE SETBACK FOR QA PROPOSED BANK IN A PROPOSED C-1D ZONE.

COMMISSIONER WILSON MOVED TO APPROVE CAR05-00061. COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Wilson – Since this subject property is located adjacent to the pedestrian uses and also on a main thoroughfare, it seems appropriate to allow this rezone in this location for some commercial use.

MOTION CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO APPROVE CUP05-111. COMMISSIONER VAN OCKER SECONDED THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO APPROVE CVA05-51. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00171/Paul Lawson  
Location:  4215 W. Franklin  
CONSTRUCT A PUD OF 3 UNITS ON .238 ACRES IN A C-1D ZONE.

SUB05-120/Bow Tie Subdivision  
Location:  On W. Franklin west of Roosevelt.  
3-LOT RESIDENTIAL TOWNHOUSE SUBDIVISION.

Commissioner Fadness noted for the record that a letter in opposition was received from Terry Anthony.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP05-171 WITH STAFF RECOMMENDED CONDITIONS OF APPROVAL AND FINDINGS OF FACT.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB05-120. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.
Regular Agenda

CAR05-00062/DA/Petros Paflias
Location: 4822 & 4824 W. Fairview Ave.
REZONE .364 ACRES FROM R-2 TO C-1D/DA WITH A DEVELOPMENT AGREEMENT.

CUP05-00174/Petros Paflias
Location: 4824 W. Fairview Ave.
REQUEST A SPECIAL EXCEPTION TO ALLOW A FOOD PROCESSING OPERATION IN A PROPOSED C-1D/DA ZONE WITH A DEVELOPMENT AGREEMENT.

Susan Riggs – This site is located on the north side of Fairview Avenue directly north of Rocky’s Drive-in. It’s east of N. Gordon Street. A single family home abuts the property to the north. Zoning certificates were issued for this property from 1974 to 1983 for the operation of a car repair. There are numerous Code Enforcement violations dating back probably further than 1995. Our records are bleak and we don’t have all the details, but we were able to pull up some zoning certificates that indicated the approval of this use as an auto repair shop. Somewhere in the record there was a limit of 8 to 10 cars to be on the property at one time, but I wasn’t able to find the files that clearly identified the number of cars. I will run through a series of photographs that were recently taken on the site. There are numerous code enforcement cases on this property for storage of junk vehicles, toxic noxious fumes from the painting and repairing of cars. A person was cited for living in one of trailers amongst all this junk and debris. To date, the property remains extremely unsightly. The property continues to be used as automotive storage, automotive body and engine repair. Staff feels that as long as this site remains, it’s likely there will be negative effects on the neighborhood for years to come. The applicant’s proposing a rezone from R-2 to C-1D with a development agreement. Page 2 of the development agreement restricts the specific activities to neighborhood friendly uses. The majority of the proposed uses are outright allowed uses in the C-1 zoning, meaning that they would just need administrative review approval because they are neighborhood friendly. Two of them would require conditional use permits. Any improvements to the property will need to go before the Design Review Committee. According to the applicant’s representative, the proposed commercial uses, which are outlined in the development agreement, are uses that the neighbors can live with and have their support. On page 3 of the development agreement, under the heading: “Waiver of Non-Conforming Uses,” the developer agrees to the following: The property is currently being used as automotive storage and automotive body and engine repair. These uses shall cease for all time upon adoption of CAR05-62 by the City Council and by this development agreement. All cars, trailers, debris, as well as a torn canopy with the metal structure over the outdoor picnic area shall be removed from the site prior to this rezone becoming effective. The building and premises shall be maintained at all times. The development agreement also limits the hours of operation. The hours of operation will be limited from Sunday through Thursday from 7:00 a.m. to 10:00 p.m. and on Friday and Saturday from 7:00 to 11:00. Under default, #C on page 4 of the development agreement it also states that if
the City Council terminates this agreement, the zoning of the property shall revert to the R-2 designation. All uses of the property which are not consistent with the R-2, which is a residential zoning, shall cease. This clause assumes that the present use of the property will not be able to be returned so staff feels comfortable that the development agreement assures the neighbors that this use will go away and that any new use that comes in would be neighborhood friendly. Any default of this agreement will revert the property back to R-2 zoning with no grandfathering of this use, so this use would be gone forever and they could come in only for R-2 allowed uses if in default of the development agreement. Staff does believe that the rezone to C-1D with the restrictions in the development agreement will vastly improve the property and be compatible with the neighborhood. The restrictions to the hours and the use will help maintain and preserve compatibility of the surrounding zoning and development. While there’s no specific commercial uses identified for this site outside the wholesale kitchen, which is the subject of the special exception, all identified uses in the development agreement are compatible with the neighborhood. For the special exception, I have a conceptual site plan because anything that is done on this property from the approval of this rezone is going to have to go through the Design Review Committee for any kind of approval. The applicant has brought to the meeting tonight an updated site plan that shows some parking layout, landscaping in the parking area. Special exceptions are intended for certain uses that because of their normal nature and design, are not commonly permitted in a given district, but that with special consideration to the applicant and standards of the area, the impact and design, the existing use, and if said use may benefit the immediate community. The applicant is requesting a special exception to operate a food processing operation in the western side of the building which is addressed at 4824 W. Fairview, the west wing of the existing building of approximately 1,500 sq. ft. Food processing is not identified as an allowed use in the C-1 zone and that is why the special exception is needed. The applicant is proposing to use the facility to process wholesale breakfast burritos. The business would consist of receiving food items, preparing the burritos, freezing them and then shipping them out to retail uses. The proposed use would provide little impact as there will be less vehicle traffic than with a typical commercial use. The applicant has stated that there will be one delivery per day and a maximum of 3 pick-ups per day. The vehicles which would be used will likely be vans and in no case will they exceed a 26 ft. service truck. There will be no customers that will be visiting this site. These aren’t for distribution for anyone outside of wholesalers. The applicant anticipates that there will be no more than 6 employees at any given time and the parking lot will provide 6 spaces for these people. The operation would be 7 a.m. to 6 p.m. Monday through Friday for the special exception. I did receive 2 letters that were handed to you at your work session, one from Wayne and Gayle Thowless and the other one from Beverly and Kenneth Matthews. One of those letters, the writer expressed concern about truck traffic going down their street. If the Commission decides to approve this tonight, if they would like to, they could add a condition requesting that no truck traffic exit down this street and that all traffic exists onto Fairview Avenue and proceeds from there. The applicant will be required to receive Design Review approval for all exterior improvements of the building, building colors, fencing, parking layout, landscaping, circulation and lighting. A condition of approval that staff has added requires a 6 ft. high either vinyl or wood fence pending on what the neighbors would like along the east property line. The applicant intends to provide a maximum of 32 parking spaces.
Although this is still conceptual, the parking requirement would be based on the specific use that goes in. There could be an office use that would go into this property as well. No uses have been identified. The special exception is intended to produce an equal or reduced impact on the site. Given the existing grandfathered automotive business and the number of code violations that has accompanied this use, staff believes that the special exception will be an unobtrusive use, will generate little traffic and noise and will therefore be a better fit to the entire neighborhood and community. Together with the proposed rezone, the development agreement and the requirement for Design Review, staff believes the property will be greatly improved.

Commissioner Wilson – Could you state the changes that need to be made to condition #7 for the hours of operation?

Ms. Riggs – It’s identified in the development which is correct. The special exception for the burrito manufacturing would be Monday thru Friday from 6 until 7. The future commercial uses that would come in, they would have hours from 7 to 11 on Friday and Saturday and the hours of operation from Sunday thru Thursday would be 7 to 10.

Commissioner Van Ocker – Since there’s been so many Code Enforcement violations, are we under the same ownership with this application?

Ms. Riggs – Yes.

Commissioner Van Ocker – If Code Enforcement violations have been occurring since 1995, where are we in that process?

Ms. Riggs – The adoption of the development agreement will make the prior use cease on the property. The rezone does not become effective until that property has been cleaned up and all the cars and junk has been removed. It is only until then can we do the 3rd reading of the ordinance before Council. We won’t even schedule this before Council until the property has been cleaned up. The fact that within the development agreement there is a clause that if the applicant is in default and all of a sudden starts bringing junk vehicles and does not maintain the property, they will be in default of their development agreement. The zone will automatically revert to R-2D zone with only the R-2 uses allowed.

Rocky Towle (Applicant’s Architect/Design Resources/1014 LaPointe St./Boise/83706) – The property has been cleaned up and most of the debris has been removed.

Commissioner Fadness – For the record we are received 3 sets of photographs of the subject property.

Mr. Towle – When we got involved I the project, it was an existing building on the north side of the 2 parcels that Rocky’s Carhop was on. Since that time we did a preliminary layout of that site and then we had a neighborhood meeting. I did not realize the extent that they had
grievances as far as the use of the ground goes. With that we went back to the owner along with trying to work with the City to come up with a solution that would work. In doing so we ended up with the development agreement that we were proposing to put together so that we could say that there was some degree of certainty that the City could maintain this as far as what went and actually have it to where the owner could go through and do his development. The only thing that we have in there that we know that we know we want to put in there is to be able to use that west parcel for the building of breakfast burritos. I have dropped off 2 of the original development agreements with 2 of the neighbors so that they could review it and then we have not heard back from them.

Gayle Thowless (4914 Bond St./Boise/83706) – When we met with the applicant’s architect it was proposed to us that there was a proposed use for the west side of the building which would be a pizza place. I’m wondering what happened to that? There’s been no mention of that. It was brought to us that there was the idea of the burrito manufacturing place which needed its own separate conditional change to the regular C-1 proposal because the burrito manufacturing would not be in compliance with a straight C-1 as well as pizza place with straight C-1. I don’t agree with the staff report on the amount of traffic. We do not have any sidewalks in this area. I have 4 children. There are several other children in the neighborhood. There are no sidewalks for them to play on. I have to tell my children that around the lunch hour they cannot go out into the street on their bikes. If we had more use on Gordon Street where the proposed entrance to this business would be located, there would be more traffic turning onto Bond Street to come around to it because the traffic pattern on Fairview is such that you cannot turn left to go onto Gordon. You have to go all the way down to the end of Fairview and circle back in order to enter the property going west on Fairview to make a north turn onto Gordon Street. The traffic to turn onto Bond Street going east and then going south to Gordon would be the more direct route to go to this business. At one point there was a barricade across that street. If this was to go through, I would certainly propose going before the City and asking for a barricade to be put up again so this road would be cutoff from traffic so that the business would only be accessible from Fairview, not from the neighborhood. The neighborhood is losing its integrity. My husband and I call it commercial creep because you have the C-1 section right along Fairview and then further down on the other side of Orchard on Fowler and beyond businesses that are on these adjacent streets are high turnover businesses as this I’m sure will be. Given Rocky’s reputation, a default would be imminent. This sounds like a fine business, the burrito place, I’m not against that. I’m against the default that will surely ensue and what will happen beyond that. If we loosen the zoning to C-1 it will be C-1 forever and who knows what kinds of businesses can go in at that point.

Barton Barbour (1617 Howry St./Boise/83706) – I teach history at Boise State University and so I can’t help but have a historical perspective and point out that the neighborhood is 60+ years old. From a use point of view I think it’s fair to say that it’s somewhere in the range of 90% residential. Nobody’s arguing that any existing business ought to be driven out. Indeed, they add to the historical character of that lovely little uncommercial neighborhood. The idea that somehow Fairview ought to creep down to the very edge of the connect seems to me not to be all
that splendid of an idea. There are other problems too that I don’t really see addressed and I don’t also believe, there was one meeting but I wouldn’t call that robust engagement with the neighborhood, not on this occasion or any other with which we’ve had to deal with the owner of Rocky’s. There’s been a long past of not the most stellar activity. Moreover there is an irrigation ditch on the back corner not 3 feet from the back of that lot. I don’t see any reference to that in here and I think there’s a potential problem for pollution there. Finally, we’re talking about having a food service manufacture with which there is no analogy to it in the neighborhood. On a site of auto repair shop for 30 years, I don’t see a reference to the EPA or any kind of survey to see if pollution is in the building or whatever else. These are the kinds of thinks I think intelligent and careful planning sort of requires. Though I see this as actually, in some respects, an advance, there are promising signs, I’m not at all persuaded that it’s in the right hands at this point nor that the plan has been formulated effectively in a way that really answers the kinds of questions that my neighbors and I have.

Catherine Kulm (4817 Bond St./Boise/83706) – We are the former owners of the property in question. From 1974 until the mid 1990’s I operated an art gallery studio and an art gallery upstairs. My husband’s business of Kulm’s Car Care was in the rear. Prior to that that building was owned and operated by a gentleman named Hosta Oretta. He had a huge, unsightly refrigeration business there. Lots of improvements were made since then by the Mr. … himself. He’s added a lot of improvements to the parking lots. If you go by the building now he has completely started gutting the building. It’s being cleaned out. There’s a new roof on the rear. We have taken the time to sit down with him. Go over his plans for the building. The sidewalks and things he’s got planned, it’s going to be very beautiful. It’s the best improvement that neighborhood has seen in a long time I think for a business area and I want to go on record that my husband and I are very much in favor of allowing to do this. I think when the neighbors meet with him and see his plans; I think they will be very please.

Kenneth Matthews (1620 Gordon St./Boise/83706) – We have submitted a written response to the Commission for the record.

Barbara Jameson (1600 Bluff St./Boise/83706) – I have some concerns, one of which is are they going to have any ventilating or exhaust system with some kind of a filter or charcoal system to keep the food odors from permeating the neighborhood as Rocky’s Drive-In does now? I get the aroma when the wind is blowing in my direction. It just stinks up everything. As I understand he’s in the process of purchasing this land from the Kulm’s, so this land is in a purchase state. Have they done any testing for contamination, EPA standards in the soil considering the amount of automotive repair that has gone on there, oil, antifreeze, etc. into the soils and ground area there? I thought that was supposed to be done when property is sold. Have they made any arrangements with the Boise Bench Sewer District regarding the extra additions to the sewage system? On the paper from the Ada County Highway District where it references the numbers and tells them what to do, the address referenced is for W. Franklin Road instead of W. Fairview Ave. I think there’s a problem there.
Commissioner Wilson – Regarding the status of the ownership of the property and whose property it is, I have a question about the non-conforming use. My understanding was that a non-conforming use would end when a property was sold to a different owner. Is that something that’s coming into play here? Can staff clear up the ownership?

Ms. Riggs – I believe there was a conditional use issued for the business. I found some zoning certificates that were issued when it was Kulm’s Car Care. There are some files that are missing so the information I have on this, I think more than a non-conforming use. I think it actually did get a conditional use and a zoning certificate. I don’t have copies of those because I wasn’t able to locate them in my search. Non-conforming uses are not affected by a change in ownership.

Commissioner Cooper – So if this is denied, then the auto related business can continue as a grandfathered use?

Ms. Riggs – Yes, it will continue and the Code Enforcement violations will probably continue as well.

Charlotte Mallet (4820 Bond St./Boise/83706) – We appreciate the development agreement that was presented to our neighborhood one evening in a rain storm, in the dark, in a parking lot in the neighborhood when we first received this information. I feel the company applying for this agreement has gone out of their way to listen to our request. We have no confidence however in the owner or the purchasing person of the property. The code violations, I really think the upper left hand corner of the present status of the property is probably digitally altered because the dumpster has never looked that tidy in the years that I’ve lived there. My questions are on the agreement, not with the company that’s requesting the present business as much as how quickly would this revert back to residential should this specific operation not be able to succeed financially. It says 90 days it would revert back, but how long would the transition be for Rocky to get a new business within this zoning agreement to take the place of this business if it should belly up? That’s a matter of trust of in the City and we do appreciate the City when we’re so embarrassed we can’t even have company come over because of the trash at Rocky’s property. The City has always come to our rescue and quickly when we show them the evidence. My concern is what after and the transition from this development agreement to a replacement agreement. The fact that it would terminate the junk cars, I heard it was 8 or 10 and we photographed and submitted photographs of up to 34 cars in that same property. I am concerned about what would take the place of the current business request when we are already in a different zoning. How quickly does he have until it reverts back to the residential zoning? We do have a lot of traffic that comes from northbound traffic that comes up Fairview. They use the cutoff on … to Bond to get to Orchard so they can avoid the stoplight at the corner of Fairview and Orchard. Another major concern is the sewage system because presently the grease that Rocky’s Drive-In dumps into the sewer system, Kenny’s wife was present when the district sewer company came through and they have to clean his grease out of the sewer line and it caused the water from her toilet to actually hit the ceiling of her bathroom. When we talk about burrito manufacturing and this type of drainage into the present sewer system I don’t believe the
sewer system can handle commercial unless that was included in the structural changes of the community.

Ruth Ann Cummings (1625 Gordon/Boise/83706) – I think most of my concerns have been addressed. I would certainly that we do have some improvement there.

Dorothy Tate/4800 Bond/Boise/83706) – It was really strange that they called a meeting out in the cold winter night after dark to discuss this. I didn’t go out because it was so nasty. Where I live I have an awful lot of turnaround traffic in my drive because I have a circular drive. I know that will not cease and I will just have more of them. I am also very concerned about the value of my property with the odor that comes from something like this because a block away I can smell Rocky’s Drive-In and know whether they are fixing hamburgers or French fries and it’s not very pleasant.

Commissioner Cooper – Does staff have anything to add about the ditch and the condition of the ditch and any potential cleanup issues for that?

Ms. Riggs – I don’t. That would be from the sewer district. I can tell you that any tenant improvement will require Building Department approval, Central Health District and Public Works approval. Planning & Zoning don’t get into some of the issues that were brought up here tonight. I did not get any correspondence from the ditch company on this application.

Commissioner Ellsworth – Under the development agreement, item #10, the uses that are listed are conditional uses or are they allowed uses?

Ms. Riggs – They are all allowed uses. There’s two that say per CUP approval and that would be #F a medical/dental lab would require a conditional use in that zone and a printing or publishing production, paper manufacturing would require conditional use approval, and then of course the food kitchen requires a special exception.

Commissioner Ellsworth – So if the business failed, anyone of these businesses could move in.

Ms. Riggs – If the food processing failed, the zone is rezoned to C-1 so a C-1 use could come in, yes.

Commissioner Wilson – I’m a little bit confused about what happens if there’s a default on the development agreement then because I thought that it would revert back to the original zoning. Is that not the case?

Ms. Riggs – If there is a default on the development agreement, we would bring this back for a rezone and we would go through the process to rezone the property back to R-2D.
Commissioner Wilson – So it wouldn’t be an automatic thing, it would have to go back through the process again to rezone it?

Ms. Riggs – Yes.

Ms. Sobotka – Actually what happens is there’s a specific procedure hearing where we would come through and say we believe that there’s a default for the reasons and there would be a hearing on it. The owner could testify. The neighbors could testify. The City would bring forth evidence as to why there is a default and you all would make a recommendation and then Council would decide if indeed there is a default. Every default is treated separately so even if one is cured or they don’t feel that that one is to the level where they want to revert it back to the residential zoning, every time there is another default we could go through the same hearing process.

Commissioner Cooper – So that any specific use that’s proposed for this site, they would go through the conditional use process again?

Ms. Riggs – The uses that are listed in the development agreement are the only uses that he can apply for. All, with the exception of the two that were just identified, would go through administrative review, but as you can tell from the building, anything that’s going to go in there is going to need a tenant improvement and would be required to go through Design Review approval. The design would then look at the building, the parking, etc.

Commissioner Cooper – But in terms of Planning & Zoning’s process, this is it for us?

Ms. Riggs – Yes. This application before you tonight is strictly for rezone to a C-1D with a development agreement and the added special exception for the burrito breakfast preparation food kitchen.

Commissioner Fadness – Could you explain the process? There were a lot of questions raised about contamination, underground contamination. Who handles that, Department of Health or DEQ and when is that done in the process if not already?

Scott Spjute – There’s no automatic review or testing of the site to see whether or not there’s any contamination. If it’s something that you are concerned about or if through the City’s review, through the Department of Public Works, if they were concerned about it they would require the testing or you could require the testing as a conditional of approval, but there’s nothing that triggers it automatically.

Commissioner Cooper – Normally on a purchase, the kind of review is what is called a Level 1 which is only ground level and up so there can be contaminants that are a risk to the purchaser if they don’t investigate.
Ms. Riggs – On page 4 of the ACHD staff report, under Site Specific Conditions of Approval, they will require that Gordon Street be improved with a vertical curb, gutter and a 5 ft. wide sidewalk along the existing 50 ft. of right-of-way.

Commissioner Fadness – Is the barricade something they would consider or did they consider that?

Ms. Riggs – I’m not sure how ACHD would handle a barricade. It’s out of my jurisdiction. However I believe the Commission could add a condition of approval that all truck traffic shall exit onto Fairview Avenue. We could require them to exit out onto Gordon Street only making only a left-hand turn and bringing the traffic out onto Fairview.

Ms. Sobotka – The Commission can add any conditions that they feel are warranted in this particular situation.

Mr. Towle – Basically when we met with the people we had set up our meeting a week in advance. We didn’t know if it was going rain, we just knew that it had to be in the evening and we at it at Rocky’s under their canopy which was on the site. As far as having the food preparation, we knew that we wanted, as far as the pizza… we said that because that’s probably one of the more intense uses. Rocky himself wants to have an office there and so as far as that goes he’s looking at a couple of hundred square feet to be able to do that and then whatever goes in there. We just want the ability to be able to make it so it’s a local neighborhood commercial office space. The pizza was actually going to go on the east side and the burrito factory on the west side. When it comes to the burrito factory, there might be up to 6 employees so there would be 6 parking stalls there. They come in at 8:00 and leave at 5:00. The whole procedure is FDA regulated so when it comes to scent and grease or ventilation or all that, he’s got to go through the procedure to be able to get that approved as far as the food service goes. The sidewalks have to be put in as far as curb, gutter and sidewalks on that street and we’ve talked to and worked with ACHD as far as the development on the sidewalks there. On the irrigation ditch, whatever we need to do on it, we’ll make sure it’s done so that it meets whatever requirements we have to there. Pollution on the soil, I don’t know anything about or what to do with that. I think the … as far as if a new buyer came in, I don’t know if he had that done when he bought the building. As far as the additions to the sewer system, I think that he’s going to end up having a sand and grease trap and whatever he has to do to meet the City’s regulations and FDA; they basically inspect him all the time. It isn’t like Central District Health where they come in and an inspection. Once you got it up they can come back and in awhile to see where it’s at. As far as truck traffic goes, we don’t have any problem in you putting something in as far as having all the truck traffic back out on Fairview. In fact as far as Bond Street goes, if they wanted to put in speed bumps on Bond Street or up there in some way that ACHD would approve of, we’d be fine with putting up a barricade on Bond Street to stop the traffic altogether to separate the commercial from the residential if ACHD could approve that.

COMMISSIONER ELLSWORTH MOVED TO APPROVE CAR05-00062.
COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Ellsworth – Like many things that we hear up here it’s not a perfect solution. Unfortunately this piece of property has quite a history to it, but I do think that after listening to everything that’s been said tonight that it will be an improvement for the neighborhood and the property that we’re rezoning tonight. I do think that the development agreement is such that it ties the owner’s hand pretty well and if I were this owner I wouldn’t want to lose this rezone and be back here before this Commission or the City Council and lose this right for this property. If we go ahead and approve this tonight, I’d hate to see this thing come back before us because a truck turns down the street the wrong way. I don’t really think that this property should lose the rezone because of a technicality, but only if the intent isn’t being followed. I’m not sure if we should restrict it any further.

Commissioner Van Ocker – I think rezoning it to the C-1D is just too much of a stretch. If they wanted to go to an L-OD I could probably buy it with some convincing. Jumping from a residentially zoned parcel, even though it’s been historically used commercially, I think that’s what we’re stuck with right now. This is a bad piece of ground and it’s been that way for years and this is a method to try and get to a better spot and I appreciate that by the applicant and the owner, but if this were a vacant piece of property we would never rezone this to C-1 and I think were only doing this because we’ve got a bad development that’s been there for years and years and years and we’re being forced into this. Personally this piece of property goes on the market as an R-1 zone; it’s going to get developed. This is a great location. I can’t support this in this form. I think the neighbors have dealt with 35+ years of a bad situation.

Commissioner Wilson – I’m very troubled by continuing to ask the neighborhood to police the applicant’s use. Right now we’re asking the neighbors to call the City whenever there’s a violation and now we are looking at a new development agreement that asks the same thing of the neighbors, to call whenever there’s a violation. Then at that point we’d be asking the neighbors to come forward in this process again. It’s not just the applicant who has to come forward before us and City Council again if there’s an issue, it’s everybody. I do feel that we are sort of being pushed into this because the existing use has been so bad. It’s like if we let them use a little bit more than what’s allowed on the property they promise they will do better. That really doesn’t carry much weight with me. Like Commissioner Van Ocker, I believe that it could be redeveloped into something else even under the existing zoning that would be better than what’s there now. I feel like a rezone is just going too far.

Commissioner Cooper – For me the question hinges on the fact that there is an existing commercial use on the site and that it is a legal non-conforming use and can continue to operate that way. What this particular development agreement, if we approve this, then that use stops and the problems with it go away. I think that is the primary difference that it’s not a bare piece of ground but that it has this current use that we can’t make go away if they want to stay.
Commissioner Wilson – I can see Commissioner Cooper’s point of view too because that’s why I asked the question I did of staff as to whether a change in ownership would mean that we could get rid of the nonconforming use at that time and the answer was no. That’s tough when you are faced with a use like this and we can’t get rid of it any other way.

Commissioner Ellsworth – One thing we could do is we could restrict it further by making everything a conditional use that’s listed under item #10 in the development agreement.

Commissioner Wilson – I think that would help because right now we are being asked to approve a development agreement with only one use selected and the whole rest of the building is there that any of these other uses could go into, including uses that are much more traffic intensive like a pharmacy, an optician shop and things like this that would bring more traffic into the neighborhood. I think if we are going to do this, I think that further restricting it would be necessary.

Commissioner Cooper – If we are making changes to the development agreement as part of this motion, I can’t remember if the maker of the motion mentioned preventing truck traffic from exiting north and only onto Fairview Avenue.

Commissioner Ellsworth – I was thinking of putting some signage up that tells the trucks where to go. Once again, if a truck goes down the street the wrong way, we’re going to be listening to this again. Is that what we want?

Commissioner Cooper – I didn’t think that we needed to define the method for making this happen, but just that it needs to happen.

Commissioner Van Ocker – You can’t put a condition of approval on an application that can’t be enforced. Even though I don’t agree with Commissioner Ellsworth’s motion, I have to agree with him from the standpoint that you can’t condition something with signage or calling Code Enforcement. It doesn’t work so we either jump in and say we’re going to zone this piece of property commercial or we don’t and you let the chips fall.

COMMISSIONER ELLSWORTH – I think we can restrict is somewhat by doing the conditional use and trying to keep the traffic down, whether that’s truck traffic or car traffic. I WILL AMEND MY MOTION TO FURTHER RESTRICT THIS PROPERTY BY SAYING THAT AS PART OF THE DEVELOPMENT AGREEMENT, UNDER ITEM #10; ALL THE ALLOWED USES WOULD BECOME CONDITIONAL USES.

COMMISSIONER COOPER – THE SECONDER WOULD CONCUR.

Commissioner Fadness – Would the motion also include the changes that staff made, the other findings regarding hours of operation?
COMMISSIONER ELLSWORTH – ITEM #11? YES.

COMMISSIONERS IN FAVOR OF MOTION TO APPROVE: FADNESS, ELLSWORTH & COOPER.
COMMISSIONERS AGAIN MOTION: VAN OCKER & WILSON.

Commissioner Fadness – I’m going to vote in favor of the motion. I have some of the same concerns that Commissioner Cooper expressed as to what might happen to this property if we don’t. I do think it’s an improvement. I do think that we’ve put enough restrictions on it, especially making these conditions. Hopefully we won’t be hearing this again. If we do then we’ll repent and zone no more I guess.

MOTION FOR APPROVAL CARRIED.

COMMISSIONER ELLSWORTH MOVED TO APPROVE CUP05-00174. COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Cooper – I think there are sufficient conditions on this particular use that give a fair amount of control on this particular operation. It sounds like it’s a fairly low impact operation with a few employees. It’s not retail so there won’t be a lot of coming and going, in fact the coming and going that there is is defined.

COMMISSIONERS IN FAVOR TO APPROVE MOTION: ELLSWORTH, COOPER & FADNESS.
COMMISSIONER AGAINST MOTION: VAN OCKER & WILSON.

MOTION TO APPROVE CARRIED.

**CUP05-00168/Scott Keyser**
Location: 11560 W. President Dr.
CONSTRUCT A 5,200 SQ. FT. OFFICE BUILDING IN AN M-1D ZONE.

Cody Riddle presented the staff report with a recommendation of denial.

Scott Keyser (Applicant/11560 W. President Dr./Boise) – Already has an existing business on the site and would like to expand it by using the bare half acre behind. The proposed building will be concealed by the existing soccer arena on the east. Semi trucks do frequently come to the property, but doesn’t see what the concern is to expand what is already taking place on the property.

Billy Ray Strite (Applicant’s Architect/1010 S. Allante/Boise) – Policy 8.1.5.4 makes reference that ancillary or supported uses such as offices or convenience centers should only be located in industrial area if in fact they are intended to serve the employees of the industrial businesses.
The trucking brokerage does support the industrial uses. Under Policy 9.1.1.2 it makes reference to the importance of maintaining sufficient vacant land for industrial uses. Fire Department has concerns with the site configuration because it is so deep and narrow with very little frontage and getting an emergency vehicle into that site with adequate turn-around. Believes findings could be made on the Comprehensive Plan policies.

COMMISSIONER VAN OCKER MOVED TO DIRECT STAFF TO DRAFT FINDINGS FOR APPROVAL OF CUP05-00168. THOSE FINDINGS CAN REFLECT THE COMPREHENSIVE PLAN POLICIES REFERENCED BY MR. STRITE IN HIS TESTIMONY. IT’S GOOD TO NOTE THAT THE NATURE OF THE EXISTING PROFESSIONAL OFFICE THAT IS ON THIS PARCEL ALREADY CURRENTLY DEALS WITH INDUSTRIAL HEAVY TRUCK AND PRODUCT DELIVERY SO I THINK THE NECESSARY FINDINGS CAN BE MADE TO GO AHEAD AND APPROVE THIS APPLICATION.

COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

FINDINGS WILL BE BROUGHT BACK TO THE COMMISSION AT THE FEBRUARY 13TH HEARING.

CUP05-00146 & CVA05-0039/Boise Building Co.
Location: 2123 N. 16th St.
REDUCE THE NUMBER OF REQUIRED ON-SITE PARKING SPACES FROM 2 TO 1 FOR A PROPOSED SINGLE FAMILY RESIDENCE AND A VARIANCE FROM THE REAR YARD SETBACK IN AN R-1CH ZONE.

Commissioner Cooper abstained from discussion and voting due to a conflict of interest.

Susan Riggs presented the staff report with a recommendation of denial.

Cathy Sewell (Applicant’s Architect/1008 S. Johnson St./Boise/83705) – This application was automatically given approval in November 2005 because of the ordinance requirement that it be heard within 40 days which did not occur. It was appealed by area residents. It then approved by the Historic Commission. Urged approval of the request as the parking patterns in a historic district are much different than what’s in other subdivisions. Would like approval for the variance request as windows on the west side will be limited to alleviate any impacts to the adjacent neighbors. There is also considerable vegetation on the west side and more will be added.

Don Plum (1221 N. 15th St./Boise/83702) – Referred the Commission to his written testimony. Concurred with staff’s analysis. The applicant owned 2 lots, sold 1 lot, creating the substandard lot.
COMMISSIONER WILSON MOVED TO APPROVE CUP05-146 AND CVA05-39 WITH THE SPECIAL FINDINGS FOR THE VARIANCE BEING THAT IT DOES MATCH UP WITH THE EXISTING NEIGHBORHOOD AND GIVEN WHAT THERE IS TO WORK WITH, THE SUBJECT SITE SIZE AND BEING ABLE TO CREATE A 3-BEDROOM HOME ON THE SITE, THE DESIGN WORKS WELL AND THE VARIANCE SHOULD BE GRANTED.

COMMISSIONER VAN OCKER SECONDED WITH COMMISSIONER ELLSWORTH VOTING AGAINST AND COMMISSIONER COOPER ABSTAINED FROM DISCUSSION AND VOTING DUE TO A CONFLICT OF INTEREST.

CAR05-00063/City of Boise
AMEND THE ZONING ORDINANCE REGARDING DEVELOPMENT STANDARDS FOR RESIDENTIAL DEVELOPMENT OF SUB-STANDARD LOTS OF RECORD IN R-1A, R-1B, R-1C, R-2, R-3, L-O, C-1, C-2, C-3 & ‘A’ ZONES.

Hal Simmons – We’ve prepared a fairly detailed staff report for this item tonight so I don’t intend to go into great detail in all the nuts and bolts of how this ordinance works. We will be happy to answer questions as we go through the hearing on that. A little background, this all really started about 4 months ago when the City Council adopted an emergency ordinance dealing with how we design and what our building standards are for development on substandard lots. A substandard lot is typically a lot that pre-existed the City’s Zoning Code and Subdivision Ordinance. Typically they are 25 ft. wide by about 125 ft. deep. The zoning code has made allowance for development of those lots as legal lots for many years. Obviously with an increase in land prices and more interest in building opportunities around the downtown, we’ve had a lot of interest in developing the substandard lots. Our zoning code has never dealt with the issue very well. We do no have standards that are unique to narrow lot development so we’ve essentially attempted to allow development of narrow lots with our standard full-sized lot zoning standards and it hasn’t worked very well. We know that we’ve had many well justified complaints from neighborhoods over the years about the quality and nature of development that was occurring. So the Council adopted an emergency ordinance to get into place some very basic standards requiring Design Review. But along with an emergency ordinance comes a very short timeframe, 6 months we were given to draft a replacement ordinance that would establish more well thought out standards that are unique to 25 ft. lots. We were lucky to have a committee of folks already together to work with. Senator Werk had put together an infill task force to debate a number of issues related to infill developments. We felt that was a really good opportunity for this group to get its feet wet with an actual development issue that we could quickly turn into an ordinance. So we’ve been working very hard with the committee for the last 4 months to debate the standards. The committee was half developers and half neighborhood representatives. We think they’ve really done a fantastic job of working through the issues, reviewing plans. We actually went out and walked through some buildings. We found out why some of our ideas didn’t work. We found out ways to make standards that were better from what we had initially started with in this draft ordinance so we think it’s been a really good example of
how the committee process works. We made some statements in the staff report that the City
had gone this route because of legal requirements associated with substandard lots. The
committee wanted it know that the committee themselves did not research or debate whether or
not these lots were legal building lots. They recognize that the City Council’s direction to us and
to them was to come up with standards that would be applied to those lots so that’s an issue to be
debated at another time if the city wants to go in that direction as to whether or not substandard
lots should be even be developable. This ordinance basically says that they are and that here are
some standards that will make development blend into neighborhoods better. There are some
basic elements to the ordinance. The first one was to establish a level of review for different
types of substandard lot development. The requirement is that if you have 3 or fewer lots that
you are building on simultaneously, then it’s a staff level review. If you are looking at 4 or more
lots in 1 development, then it goes to the Design Review Committee so it’s a committee-level
review and a lengthier and more time consuming process, a little more rigorous process. On
notification requirements for something that we had considerable debate over, we started out at
150 ft. radius notice and ultimately we ended up with a requirement for a 300 ft. notice around
the subject properties. The developer is responsible for providing that written notification prior
to filing his/her application. Any application that then goes on to the Design Review Committee
will then receive additional radius notice sent out by the City. The first thing we looked at was
what should be the base zoning standards recognizing that standards for a 50 ft. lot might not be
the appropriate standards for a 25 ft. lot. We essentially scaled back things like building height
so that a building can’t be taller than the lot is wide, so for a 25 ft. lot typically you are going to
have a 25 ft. or less tall house. We got into building bulk and tied the total floor area to the lot
area so on a 25 ft. wide lot you couldn’t get more than about a 1,500 sq. ft. house. We got into
private open space requirements, landscaping requirements, which is a new point for us with
single family homes to require landscaping and landscaping plans. Parking requirements, we
decided that if an alley access was available they had to provide 2 parking spaces off the alley. If
alley access was not available, then they still had to provide an enclosed parking space off the
front with living space over it so that you didn’t have the affect of a snout house where you just
have a small garage out in front of the house. The idea was to create the visual of living space in
front of these houses. One of the unique things this ordinance goes into is allowance for
alternative building types. One of the things that the committee discussed was that one of the
reasons narrow homes sort of stand out is because they are so different from the more
conventional wider single family home. The committee actually crafted an ordinance that allows
for combining of units into larger structures and it uniquely allows that through the Design
Review process rather than through the lengthier Planning Commission conditional use process
so that’s a really unique change. One of the more difficult issues to deal with had to do with
right-of-way improvements. We know that when single family homes go in on these lots they
are not a subdivision, they’re not a PUD, so they typically don’t get ACHD review. We’ve had a
real problem where there’s been no agency to require sidewalks, cubs and gutters. We’ve had a
lot of instances where we’ve have unimproved dirt in front of the homes and cars parked on that
dirt as if it was just a parking lot. One of the things that Design Review is going to have to work
through with every single one of these applications is to resolve the street treatment out front.
The basic requirement is there should be curb, gutter and sidewalk. That’s relatively easy to
accomplish if you have that on either side of the lot. If it doesn’t exist then we are going have to work with ACHD on alternative treatments. The committee wanted to make sure that we did require landscaping and an irrigation system with a license agreement and unopened and unused ACHD right-of-way if that happens to be the situation that we have on one of these. There’s also a requirement that we come up with some sort of curb line to prevent cars from parking on the lawns of the houses. So we have had discussions with ACHD and we believe we’ve got some alternative standards that we can use if for some reason it is not possible to install a curb, gutter and sidewalk. We’ve also proposed by ordinance that there be a trust fund established that could go into either an ACHD or Boise City fund for later improvement when it’s more feasible to do the entire street or the entire block. The last item is Design Review guidelines. Again, the fundamental change for this ordinance is that Design Review, either staff or committee level, is required for all homes on substandard lots, whether they are single family detached or attached, so the Design Review Committee had to have some guidelines to review against. I think the first one is probably the most significant one. It says that full, 2-story homes in general should not be allowed on substandard lots because of the bulk that they create and the impact on adjacent lots with shading and privacy impacts. Only on a case-by-case basis, if staff can look at the adjacent setting and determine that a full 2-story is appropriate, should it be approved. However, one of the things we found when we reviewed and toured some of the existing homes that being build in the North End and other places is that there is a concept of a story-and-a-half where the first floor is either a daylight basement or the second floor is in the volume of the roof. It really dramatically reduces the apparent bulk of the house. The committee liked that. The developers on the committee felt it was a viable product type and we built that in as an allowance in the Design Review guidelines that gets you past the whole concept of whether a second story should be allowed. If you build with these standards then you are past the 2nd story issue altogether. Other than that the Design Review guidelines go into things like façade treatments, front door location, window coverage on the façades, variations in design. They are reasonable design guidelines, things our Design Review staff and committee members are well prepared to review for and approve with appropriate conditions. We believe we’ve got a workable ordinance. It is fairly complex, but it’s light years ahead of what we had in the code before. We think it will make a significant difference in how we review, condition and approve substandard lot development. I really believe that we are going to see a dramatic increase in the quality of the product types that are going onto our substandard lots and that we will find that because of that, substandard lot development is a resource that benefits neighborhoods rather than harms them. Only time will tell and experience with this ordinance and if we find there are problems with this ordinance in the short-term, we are very prepared to come back, reconvene the committee and work through whatever changes are necessary to make it a more functional ordinance. It is very important that we get this on to the City Council in a timely manner. This has to be before the Council on March 7th. They are going to have to act on it on that night in order to complete the reading process and have this ordinance ready to go into affect on April 10th.

Lance Evans – One point that you will need to address in your motion, it was pointed out to me earlier tonight that in Section 11-04-14.03A2b, there’s an editorial comment basically referring to a section of the code, the second sentence needs to be deleted. It does not belong in there.
Commissioner Ellsworth – Would item #14 on tonight’s agenda have been allowed under the ordinance change?

Mr. Simmons – I was not here for that last application so I don’t know. I will study up on it and I’ll be prepared to answer that later tonight.

Commissioner Ellsworth – It looks like it’s close. The square footage is within the ordinance change, but I’m not sure the height is though.

Elliot Werk (6810 Randolph Dr./Boise/83709) – I’m representing the Infill Development Task Force. This was a collaboration between the Infill Task Force and the City and I think it’s been quite effective. It’s probably pretty important to note that this is a first step. We have issues with infill in the city that are going to require a lot of different changes to ordinances and a lot of work to be done, but this is certainly a good positive first step. Within the Infill Task Force itself there are people that have differing opinions about development on substandard lots. I wanted you to be aware of the fact that there is a community of folks out there that believe that we should not be developing substandard lots at all. That probably might come back at the City at some point in the future as we continue our work. There’s also a concern about whether or not substandard lots really have a development right, whether legally they have a right to be developed and that may come back as well. The ordinance change is supported by the Infill Task Force. We see it as a very positive first step. The idea is really to stop the hemorrhaging that we were seeing in our neighborhoods and if you’ve driven through some of the neighborhoods you’ve seen the kind of infill development that has enraged neighborhoods for good reason and good developers out there feel the same way from what I’ve been able to gather in our meetings. Those guys don’t want to be associated with some of the stuff that’s been going in. The changes that we’re contemplating this evening in this ordinance are going to improve the situation probably dramatically if we get good design review. This is supported by task force and I urge you to send it onto the City Council.

Susan Morrow (6124 Post/Boise/83704) – I’ve handed you a packet of expanded testimony that includes the slides that you see on the screen. I am a member of the Infill Task Force and I really do enjoy that, but I do want to go record as saying that I don’t believe that you should approve this ordinance as written. It does address design and it does a good job of addressing design, but the real issue is that we have redevelopment occurring in these neighborhoods that is not regulated in any way. This is a tour of my neighborhood and on this particular street here there is 10 of these houses plus 2 that are developed on other kinds of substandard lots. On this one there are 4 other houses and these 3 houses for sale right next to the 4 skinny houses that have gone in. This developer wanted to build 1 house and he was discouraged by the Planning Department for building 1 house because he could not have a lot line going through the house. I believe that the ordinance should contain a mechanism to make it easy for people to build 1 house on 2 lots if they want to instead of easy to build 2 houses on 2 substandard lots.
Frank Nicholson (1231 Leadville/Boise/83706) – I was on the committee part-time when I could go and you find how hard it is to make these kinds of decisions to make everybody happy. I thought they made some great improvements, but I think, like the last speaker, that they should go further. One of the things I think we need to do is set a specific time for the next review instead of just saying generally that in the future we will look at making the changes, but I would recommend making like maybe 6 months going over it again to see how to improve it to continue on rather than just kind of ignore it. The height restriction, there’s 3 of these in a row on Colorado and I took a measurement to the roofline. It’s 25 ft. Under the present rules it says it can be up to 35 ft. so we’re not actually really reducing anything, we’re just saying that they can meet, the houses that are being built today, will just be met in the future. In the roofline, it’s midway in between the roofline is the measurements, so if you had a 10 ft. roof you could actually go 30 ft. high so that makes it even further higher so I would recommend even coming down further, especially with the houses next to us. Almost in my neighborhood there are 8 ft. ceilings so the houses are about 12 to 14 ft. high total and then right next to it is a house that completely overshadows it with a 29 ft. ceilings up to 25 ft. high. Would you want one of these houses next to your house when you consider these issues?

Lorene Spencer (Representing the Vista Neighborhood Association/625 S. Latah/Boise/83705) – Infill has been for many years, and continues to be a significant issue, in the Vista neighborhood and the Vista Neighborhood Association has been intimately involved with infill matters many times in front of the Planning & Zoning Commission and City Council. We appreciate the attention that has been focused on development of substandard lots and believe we have been influential in identifying important factors that require consideration with respect to infill on substandard lots including many of the items that are specifically outlined in the emergency ordinance. We are actively participating on the Infill Task Force. Numerous problems with infill and development on substandard lots have been clearly and repeatedly expressed. In fact, it was because of a lot in our neighborhood that we brought to your attention that was instrumental in the instruction for development of the interim ordinance. For the most part these problems were identified and addressed in the emergency ordinance. Unfortunately except for some cosmetic changes, the draft ordinance fails to resolve virtually all of the substandard lot issues that are clearly outlined in the emergency ordinance and nothing has been done about the situation that caused writing the emergency ordinance in the first place of when a 25 ft. lot that has been part of an established parcel is developed and it puts the adjacent buildings on the adjacent lots in a state of non-compliance with established zoning setbacks. We are frustrated and cannot understand how the draft ordinance, in its present form, could even be up for consideration unless the concerns that have been so frequently identified to the City by the associations and residents have simply been ignored. The individual issues of concern identified in the emergency ordinance as representing various threats and imminent peril to the neighborhoods and neighbors will essentially receive rubber stamp approval under the draft ordinance. The emergency ordinance protects and promoted the health and welfare of the citizens and neighborhoods. The draft ordinance fails to conform to and in fact defeats the purposes for which the emergency ordinance was enacted. It appears to us that all the problems, except cosmetic problems, which have been identified and associated with development of
substandard lots that lead to the adoption of the emergency ordinance will simply be legitimized by the present draft ordinance. Nothing has changed and in fact our view the situation is worse than it was before. It honestly appears that our concerns have been ignored and in our neighborhood infill will continue to be some variant of a 15 ft. wide, 2-story skinny house on a 25 ft. lot. In fact, it is similar to eminent domain where a government entity uses its interpretation of the law in order to make available large tracts of land to developers. We would ask you to consider, since it is part of the record having to do with infill, all the testimony that has been in front of the Commission on the matter of infill and development of substandard lots over the last 3 or 4 years. The most important factor that we would like you to consider is the housing density already identified in existing zoning ordinances. R-1C neighborhoods are currently zoned for 8 units per acre while R-2 neighborhoods are 14.5 units per acre. A developer has to go through the CUP process in order to get a 20% increase for a density bonus. The density is 10 units for R-1C and 17.5 units for R-2. The effective density, when substandard lots are developed in existing neighborhoods, is 16 units per acre. This is more than the R-2 zoning. As a practical matter do you think a developer will choose a lengthy process for a 20% bonus or a shorter bonus for a 100% bonus? It appears that if these substandard lots were meant to be developed singly, the zoning would have been 16 units per acre instead of 8. 15 ft. frontages and 5,000 sq. ft. lots are the minimum standard as reflected in the existing zoning. The market in our neighborhood is ruthless and non-developer buyers can’t compete. These lots are snapped up as soon as they come onto the market. Dr. Vicki Simmons, Deputy Superintendent of the Boise School District, spoke at our December association meeting. She gave an interesting statistic. She said that we used to be able to keep 50% of the newborns born in our hospitals in our neighborhoods. This number has now dropped to 37% with the exodus going to Meridian or Kuna. Officials in the city have expressed concern on how to attract more families to the city but continued development of these substandard lots is resulting in the opposite effect. The other concern that we have is on our infrastructure. I talked with the officials from the Bench Sewer District, United Water and the Board of Control. For the Bench Sewer District I was told that continued development can extend the capacity and that they need to troubleshoot. In other words, they will only know when there is a problem when the sewer overflows. This was also true for United Water. They only know when the pressure goes down and for the Board of Control, talks have only started on the irrigation problems and that is mainly for large developments and no one knows how these piecemeal developments are going to assure established irrigation users that they will still be able to get water. We are against this ordinance.

Chris Sabala (610 S. Owyhee/Boise/83705) – I live up on the Bench and am an infill builder/developer. I’m for infill development. I like the houses. My owners that buy them, a lot of them are owner occupied, very happy with them. They can afford them. They like it. The question I have on this ordinance, the height requirement and people questioning the shading, my question is this. I’ve got many other lots I’m looking to do stuff on. I can easily make them a 50 ft. wide lot, so 35 ft. with a 5 ft. setback off the side which isn’t a shading issue because it’s a 50 ft. wide lot. It’s not irregular. My question is why is a substandard lot a shading issue when if I’m a 50 ft. wide lot it’s not a shading issue and I can go up to 35 ft.? I don’t get the reasoning when on a substandard lot the height is the problem, but it it’s 50 ft. wide I can go up to the 35 ft.
and the City will approve it with no problem. There’s no conditions, no design review. If it’s within the building code, the city will approve it. My question is, on the shading issue, I just don’t get why substandards are a shading issue, but if I go 50 ft. wide, there’s no shading issue.

Fred Fritchman (1321 Denver/Boise/83706) – I’ve been serving on the committee drafting this ordinance over the last few months. I fully support the amendment. It addresses the most serious concerns neighbors have expressed about narrow lot development. In my area, in my neighborhood those concerns are perpendicular parking in unimproved rights-of-way, 2-story bulk of the houses and loss of sunlight and privacy for adjacent lots. The amendment proposes specific methods to address these issues. It requires landscaping in the rights-of-way so that this area does not just become a gravel parking lot in front of the house. Proposed dwellings will go through Design Review so that their impact on the existing neighborhood can be assessed and adjusted if necessary. Story-and-a-half dwellings are incentives with this amendment. Increasing the open space requirement from the present 150 sq. ft. to 225 sq. ft. will make for more livable units. Streamlining attaching the dwelling units on a common lot line will give incentive for more substantial structures similar to those in existing neighborhoods. Requiring greater variety in façade design will bring architectural value to the neighborhoods. I have one concern with the proposed amendment and that the floor area ratio. A 50% floor area ratio would allow a home of 1,560 sq. ft. on a 25x125 sq. ft. lot. The larger 3-bedroom homes that I’ve seen in my area constructed, are a little less than 1,400 sq. ft. and they are pretty substantial. I’m hopeful that Design Review can deal with mitigating possible negative affects of a structure of this size. If the proposed ordinance is adopted and goes into affect, this will be one of the standards that I think will merit monitoring to see how it is affecting neighborhoods. Otherwise, I think this is a good amendment and if adopted we will have better single family homes on these narrow lots than we’ve had. I ask you to approve this tonight.

Andy Erstad (420 Main/Ste. 202/Boise/83702) – This is a great effort and a great job. I applaud the Task Force and I applaud the City for doing it. I’m wearing a couple of different hats tonight and one of those is a representative of Design Review. A few things in the ordinance that I don’t necessarily agree with and I understand they are hotly contested items. One of those is the notification of neighbors within 300 ft. I recognize that there’s contention on that issue, but we’re asking Design Review to review these projects and we’re putting a more stringent Design Review overlay requirement than exists in any other Design Review zones which is typically notify your neighbors and the neighborhood association. I would ask that you consider looking at that language and going down even to the 150 ft. radius is much greater than the current ordinance and other Design Review zones. I would also ask that you look in the language that is associated with the ordinance rewrite in Section 11-04-14.02/Applicability in General Provisions. Under item C it identifies that 3 or fewer dwelling units would be handled at a staff level and 4 or more dwelling units would be handled at the Commission level. I think this warrants perhaps some alternate opportunities where 4 or fewer would be staff level and 5 or more because then the massing is quite large. Section 11-04-14.04A2a, regarding that section, who defines what the dominant street is? The development community may have one sense if it sits on a corner that corner lot may have a different dominant street elevation than the adjacent
interior lots. I would say that’s a clarification issue and certainly should not derail your passing of this ordinance. I appreciate staff’s review of all of this because they recognize the fact that there are a few things still to be noodled out in terms of right-of-way, who deals with the trust fund, how’s that managed, but I think this is a great first step and I agree with Mr. Werk that it needs to be brought forward to Council.

Sarah Wiltz (Representing the Sunset Neighborhood Assoc./3112 Treasure Dr./Boise/83703) – I’d like to say that the current moratorium, if this is an extension of it, it’s not working in our neighborhood. We currently have about 12 to 15 homes that are being built on substandard lots and they don’t follow within the guidelines I don’t think of what this is suggesting. We live near the foothills and a lot of people live in our neighborhood because we like the foothills. We don’t want to see development going up there either. It’s difficult. I look at pictures of other neighborhoods and they are unlike our neighborhood. We are somewhat rural. We don’t have sidewalks. Every house is the same. We have very large lots with very small houses. Right not on 30th Street we have a block that used to have 10 houses on it. In 3 years, if development goes through, it will have gone from 10 houses to almost 20 houses because of the infill development that are going on. There are just so many things that is changing our neighborhood and affecting the value of the homes around. The lot sizes are getting way too small. What I would suggest is some sort of a continuation of the moratorium but with some teeth because I don’t think the current one has any teeth. It certainly doesn’t in our neighborhood. If we can get the design review to actually work I’m all for it, but it doesn’t seem to be working right now and I also agree that having some sort of a timeline on it where we can review it in a year and say is this really working or is it not. Ideally what I would like and what I think a lot of my neighbors would like a true moratorium on infill development for a year. The developers have eaten their cake the last 5 years and I think that having a true moratorium on infill development for a year so that we can review it and see where to go from there isn’t a bad idea. The people in my neighborhood are somewhat enraged about what is happening.

John Gannon (Representing the Depot Bench Neighborhood Assoc./1104 Johnson/Boise/83705) – I think the challenge for us as a community and for you as a governing body is to show that infill development can be done as well as a lot of the city leaders believe they can do on the Hammer Flats proposals. I’ve heard over the past month or two that this city ought to be guiding development at Hammer Flats. That’s fine. I endorse that, but I think the challenge is to proof to the neighborhoods, to the people who live here, to the people are here tonight, that you can develop infill to that kind of standard that you say you can take care of Hammer Flats with. At this point I have two suggestions for the ordinance. One thing that has been discussed time and again in the Infill Task Force Committee is trees and vegetation. I think there is a way to give an incentive to the development community to maintain trees and that would be by waiving fees. For example, in our neighborhood trees are very valuable and I’ve seen some that are very, very old that have been cut down. If they can be retained on a substandard lot or adjacent to the substandard lot where a sidewalk might go, then in consideration for that, because that benefit is being given to the community and the neighborhood, the an a fee would be waived, for example some kind of building or filing fee. We talked time and time again about incentives to take
different steps that would make a substandard lot development more valuable to the community. The people who wrote this ordinance did not really get to the issue of the trees and the vegetation. That kind of incentive would be one that we would very much endorse. Secondly, we think that when Design Review is considering the various factors that are in this ordinance, they should consider the neighborhood plan. Different neighborhoods have different needs and different priorities and if we can include the neighborhood plan in the considerations of Design Review I think we would take an important step towards including those concerns and priorities in with the entire Design Review process and come out with a better result.

Carlo Maalouf (1628 Vermont/Boise/83706) – Currently I’m a small time homebuilder in this area and we’re building 2 row houses off of Vermont St. next door to where I live. We got these 2 homes in before the City ordinance and that’s what I venture to say is that all the homes that are currently being built as of today are before that. There’s probably somewhere about 10 to 20 homes that got in before the City ordinance so all those that are being built basically got in before that. We’re currently building our houses to try to reflect a little bit of that. The one thing that we dislike is having that door in the front when the door on the side of house actually works a little bit better as far as the flow of the house. But, we’re able to work with that. The infrastructure for building these houses is easy for the city. If I were in your shoes I’m thinking this is easy money. This is easy tax money. The water, sewer, everything is already there. It’s easy money for everybody, not to mention they are popular sellers. As far as the homeowners are concerned, the neighboring homeowners, the 2 houses that we tore down were the worst houses in the neighborhood. I lived next door to them. No electricity to them for 15 years, no running water. I tore them down and put 2 houses up and they sold within 3 weeks. Why are they hot sellers, because they are popular. People like them. I don’t think we have anybody here that has actually lived in one of them or you would have an opinion saying they are great houses to be living in, simple living, small grass, small property to take care of. I think that’s important. I’ve been getting e-mails from Chuck Storey. He’s been spearheading the developer part of it and he worked really well to help encourage everybody to participate with input, etc. The one full length, 2-story from the get go when they had the emergency ordinance, when I read that and read it over and over again, I’m 2-story discouraged. In this instance that just kind of puts a halt to everything. Current developments that were small little infill developments we’re doing under a PUD status, everything is 2-story. The adjacent properties are single story. Hubble Homes, when they build houses, it’s all 2-story. There are some single story out there too, but is there any consideration between when somebody’s doing a subdivision like that? I don’t think so. My thought is that as far as the 2-story, it should be encouraged to bring families into the community. If you build a small house a family is not going to move in. If you build a big house they can have a dog and everything they want there by having a 2-story, by increasing the square footage. Discouraging it in my mind is not a good thing.

Wendy Matson (302 N. Garden St./Boise/83706) – It’s been really educational hearing both sides. The 2 women, the Vista representative and the one from Sunset, really resonated with me. They know a whole lot more about this than I do. I like the fact that we are starting but it seems like we need to do a lot more work. I’ve always been very concerned about the issue of
reforestation. Seems like we are raping and pillaging the town of trees. I like what the gentleman said about forestation issues.

Caile Spear (920 Balsam St./Boise/83706) – I was a part of the Infill Task Force and the reason I got involved was because of a comment that you had made at a P&Z meeting. I’m a firm believer in the 300 ft. notice and yes, this is a good start. It’s taken a lot of effort and I applaud all the efforts of the developers and people putting this together, but I firmly believe we will have to review this because we have to see how it works first. In the Central Neighborhood we’re seeing a disaster. Please support this but do consider that it have a review within 6 months to a year and keep the 300 ft. notification of the neighborhood.

Dan Dixon (3483 Williamsburg Way/Boise/83706) – I’m a real estate agent and worked with and partnered with one of the buildings on building these and have done a lot of them. The only thing that I see here that I question is the notification of the neighbors within a 300 ft. radius, which whether you agree that it’s a good thing or a bad thing, I think needs some clarification on why are we doing that. Does anybody know why? Is there a purpose behind that? Or, are people going to get notified and them come down to City Hall and City Hall is going to say you got notified and that’s it. Is it just going to create a lot of time? Are they going to have a say in it? Are they going to be able to come down say they want the design changed or they don’t like it and don’t want it built there at all? You might get a lot of neighbors that going to be upset and saying why are they doing this, why are you guys doing this. How much time do you want to have the City to undo the subjectivity of these projects? I just spent some time in Chicago. I talked to a lot of people in Portland, Seattle, these little lots are all over. Apparently they’ve developed them all over in most all the towns in the Pacific Northwest and every town has dealt with it in different ways. But one thing I found in common is that everything changes and the neighborhoods and the bigger towns you don’t want to go to are the neighborhoods that have not been renovated because our bodies deteriorate, our homes deteriorate, everything eventually goes down the tubes and so we will have change. It’s what direction that change is going to be. The more subjectivity the more time the city is going to spend at it. The more money you are going to spend at it and yet you’ll still have differences of opinions so I think this ordinance should be accepted. I think it is a good thing, but I think that the issue of clarification of why are we doing this notification, and if it’s not going to accomplish anything, then why are we doing it? Is it just going to cause us time and hard feelings, or is there an end result where we’re going to have to hire 2 or 3 more city employees to address this issue.

Glen Walker (920 N. Balsam St./Boise/83706) – I’m not against infill. I think it’s very important as far as density is concerned for mass transit, etc. I am against in fill that doesn’t match what the rest of the neighborhood is looking like. I have a real problem with walking through my neighborhood and walking upon houses that just don’t fit. You have a beautiful house and right next to it a 2-story infill that’s 10 ft. off of somebody’s bedroom. I just don’t understand how we can go along and think that’s okay to do. My house where I live now, I’m considering someday adding rooms upstairs into the attic. To do that I would need to restructure the roofline. I’ve looked at a lot of different ways of doing that. One of them was to go ahead
Boise City Planning & Zoning Commission  
Minutes of  
February 6, 2006  
Page 27

and almost add a second story. When I looked at that, it did not fit in with my neighborhood and I had to think about if I really wanted to put in something like that that doesn’t match the 2 houses sitting beside me and I decided that that wouldn’t work. I’ve asked my architect to just change the roofline to a 12-12 pitch so that I could put a bedroom and a bathroom in the upstairs so it would still fit within my neighborhood. What I would like to see when we are looking at adding these infill is that it just matches and doesn’t stand out. There is a house on Irving Street that they added that I think they did a fine job with, but there’s 2 others that I’m wondering why they did that. The one house fits. It is kind of a tight squeeze, but that’s okay.

Peggy Boldman (6247 Northview/Boise/83704) – I too was one that did not want change. When they were building the houses in our neighborhood I didn’t like it, but I love it now because they are young families. They own the houses, they were all rentals before. I am no longer afraid to walk to the store because they live in the neighborhood so I think this is a good thing.

Commissioner Wilson – I’d like staff to address a couple of points that were brought up by the Vista Neighborhood Association, one being that when you build on a substandard lot that puts the neighboring houses into non-compliance with existing zoning laws by changing the distances and lot lines, and that if substandard lots are developed to a degree, if we’re just approving these piecemeal, then how does that work with the existing overriding zoning and density per acre?

Mr. Simmons – I think the thing to keep in mind is that each of these lots is going to go through an individual development review process wherein we can take into account what’s on the adjacent lots, where the structures are located. There is leeway within this ordinance to shift structures forward or backward to, through the Design Review process, require a larger side yard setback through a patio area or something to protect separation between structures. I think our feeling is that in most cases we can, with Design Review, require modifications to protect proper separation between structures. Development on these lots do not necessarily make development on adjacent lots non-conforming. The setbacks are always measured to the property line from the structure itself so if this structure meets the setbacks, the fact that the adjacent structure doesn’t meet setbacks doesn’t make that structure any more or less non-conforming. Every structure is measured on its one lot against its own lot lines so I don’t think that development on substandard lots creates non-conforming structures on adjacent lots. I think we do intend to work around where we have non-conforming setbacks on adjacent lots and do what we can to protect them through this ordinance.

Commissioner Wilson – If these are being approved piecemeal, one at a time on their own merits, how does that get related to the overall zoning of the area and would we be exceeding densities in say the R-1C zone?

Mr. Simmons – Most of our areas are developed far under what the allowable density is right now. I think we would have to see a huge number of these lots recycled to ever exceed what the planned density is throughout the Central Bench or any part of the city. I suppose that if you got to a scenario where 75% of the lots had turned over to substandard lots, you might be
approaching the threshold of what the land use designation and the zoning allows, but in the short term there’s no danger of that. You might see a portion of a block would exceed that threshold, but on the larger area, for many years in the future, it’s going to be underneath those thresholds.

Commissioner Ellsworth – In the way the ordinance is written right now, is there any thought to allowing more leeway to granting a variance based on a hardship? Right now it seems like our hands are tied and design is kind of governed by that. It’s hard to grant a variance if you can’t find a hardship. Is there anything in this ordinance that talks about that?

Mr. Simmons – I suspect it’s going in the opposite direction. I think the purpose of this ordinance was to tie down and actually limit development to some extent on substandard lots so I suspect it’s going to be hard to find hardships and variances with this ordinance than it was before. The idea was to get out of the situation of granting variances to allow excessive bulk, to allow structures that the neighborhoods have not found to be compatible. To the extent that any requested variance works to meet the design standards, I would say that’s still a possibility, but I think there are going to be tougher criteria to weight the acceptability of variances against this ordinance so I would not hold out hope that the ordinance will encourage more flexible granting of variances. It will probably be the opposite. In response to your first question after staff’s presentation about whether the project in item #14 would meet the ordinance, in reviewing it I would say that it would probably be pretty close. I suspect that the debate that the planner would have, under this ordinance, would be how much of that second story was acceptable and that would really be contingent upon what was around it, whether there were full 2-stories on 2 or 3 or 4 sides of that house. It does not have alley access. It has a garage access off the street. It has living space over the garage. That is something the ordinance would require. But, I think that we are going to be critical of full second story construction under the substandard lot ordinance. I noted that that is a full 2-story house so that I suspect that over time that’s where the most disagreement will arise as we work with this ordinance. But I think it’s the design of the materials. For the most part I would say that it complies with the ordinance.

Commissioner Cooper – The mature trees in the neighborhoods was mentioned as well as recognition of neighborhood plans. I just wanted to clarify that since any of these would now be going through a Design Review process, the staff at that time would address those issues, specimen of trees and neighborhood plan requirements.

Mr. Simmons – That’s correct. We’ll out visiting every single site noting what’s on the site, where the adjacent trees are and working with the applicant on a landscape plan that does protect trees wherever possible.

Commissioner Wilson – Could you also address the idea for incorporating some language into the ordinance that would state that we would monitor the affects and revisit the ordinance periodically? Is that something that can be done? How could an idea like that be accommodated?
Mr. Simmons – I’m not sure that that would be an appropriate thing to work in as an element of the ordinance, but I certainly think it’s appropriate for the Planning Commission to give direction to staff to come back in a given period of time with some results of a monitoring effort. I feel they expect the Council will give us that direction as well and I think that is something that is best done by minute-by-minute action rather than an actual amendment to the ordinance itself. Because of the length of time that it takes for projects to go through the design, review and construction process, probably a 1-year time frame would be an appropriate timeframe to come back and look at what our experience has been.

Commissioner Fadness – Could staff also address the question of the 300 ft. notification and also why we notify people within that area?

Mr. Simmons – The purpose of notification was that one thing we were finding when these were just done by building permit alone was that the neighbors never knew about the project until the project was actually under construction. By then it was too late to have any kind of meaningful input and there really was no formal process for neighborhoods to learn about a project or to have input on the design. The notification will be provided by the developers. We had a big debate over whether it should be adjacent, whether it should be a 100 ft. radius, whether it should be 300 ft. The debate went out as far as 600 ft. as to what needed to be notified. This was one of the very last things that we finally settled on. We spent the first full meeting the notification process and we spent most of one of the last meetings on it so it was a contentious issue. The point is the developer is responsible to notify those that live around the project that he’s/she’s going to be doing a project on the site. He/she needs to provide them with a sketch plan showing an elevation and a floor plan so the neighbors have an idea of what is being proposed. He’s required to give them his name, address and phone number and the City’s Planning Staff’s address and phone number. That gives the neighbors an opportunity to come in and meet with the Design Review planner, if that’s what they chose to do, explain how they perceive their neighborhood and the adjacent uses, and provide guidance as to what the issues are. If there’s a well loved tree in the neighborhood whose roots might be cut by a particular structure location, if there are parking issues, if there are shading issues, drainage issues, it’s just a way to get local knowledge into the staff or committee level review process. We’ll listen to those comments and do our best to work them into any modifications that we suggest to the design.

Commissioner Fadness – And that doesn’t change regarding what level it is at.

Mr. Simmons – That’s correct. We had talked about having 150 ft. radius notice for staff level and a 300 ft. radius for committee level. The ordinance committee just felt that it should be 300 ft. and that was the agreement that was reached.

Commissioner Wilson – When we look at projects and variances and planned uses in neighborhoods we look to the Boise City Comprehensive Plan and we also look to the neighborhood plan. Often in the staff reports we’ll have actually have amendments of a few
pages from a neighborhood plan. I’m not familiar with the Design Review’s process. Do they also look at that the same way that we do?

Mr. Simmons – Absolutely. The Design Review planners will look at the Comprehensive Plan, the neighborhood plan, any unique transportation plans that are proposed for the area and the Zoning Code and they will visit the site as well. Any adopted plan or document that affects that particular parcel needs to be reviewed in making a decision.

COMMISSIONER VAN OCKER MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF CAR05-00063.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – Obviously everyone in the audience has been very involved in this process and I think it’s great. IN MY MOTION I’LL MAKE A RECOMMENDATION TO THE CITY COUNCIL THAT THEY REVISIT THIS ORDINANCE IN A YEAR WITH STAFF AND HAVE THEM ASSESS WHETHER ELEMENTS OF IT NEED TO CHANGE AND WE CAN MAKE IT BETTER AND STRONGER. ASSIDE FOR THE TYPOGRAPHICAL ERROR THAT’S IN SECTION 11-04-14.03, DELETING THAT SENTENCE, I’M NOT GOING TO MAKE ANY OTHER MODIFICATIONS TO THIS ORDINANCE AND WILL SEND IT ON ITS WAY TO CITY COUNCIL. I do appreciate everyone’s involvement. This how we solve problems and fix our communities.

Commissioner Cooper – I’m going to support the motion. I also applaud the people that worked on this ordinance. I think it really makes things a lot better than they have been. I think the City’s correct in going with the larger range of notification that may cause a lot of testimony to happen in some of these event’s, but I think it’s better to error on the side of letting more people talk than less. I think an important point to make is I think some of the testimony tonight was from people who actually want to prevent higher density and I think that what we really should be trying to do is allow a higher density, but add greater controls to how we do it. Particularly some of the examples that were shown, I thought there were both good and bad examples of houses in those slides. The design of these buildings is really important and it’s good that we’ve got more controls on that.

Commissioner Wilson – I’m also going to be supporting the motion to forward this onto to City Council. I would like to ask the City Council to direct staff to come back in a one year time frame and let us know how it’s going, monitor the effects of it and see if is helping neighborhoods and helping developers come to resolution more quickly and what kinds of things are supposed to be developed and whether these things actually are becoming more compatible with neighborhoods.

Commissioner Fadness – I do want to commend the work that all of you have put into this. We appreciate seeing cooperation rather than confrontation. I think some of the concerns that the
opponents brought up were very valid and I think the 1-year timeframe will allow us to see whether in fact some of those concerns are being met. One of the persons testified said: “I don’t think any of us here live in one of those.” I do. I’ve heard people call them skinny homes. One lady who testified called it a Barbie dollhouse. We’re delighted with our. Our children are grown and it’s the perfect size. They are affordable. The one we live in is well built and it’s well landscaped. It’s alley entrance with the garage in the back. I’ve also seen others that turn my stomach and so I think that’s one of the reasons that we’ve done this so that hopefully these will be quality developments. I think one of the biggest issues we’re going to have is the stricter requirements on 2-stories. Almost all of them I’ve seen are 2-stories and I’m going to be very interested to see how that pans out. We might see some changes in a year or so on that. These address a very important need in this city. This city is growing and I’ve said so many times before in these meetings that we have to find a way to accommodate a growing population. I don’t know about you, but my 2 pet peeves in life are turning up the volume during commercials and urban sprawl. I think that this is a positive solution to urban sprawl and getting people closer to neighborhoods, cutting traffic, cutting pollution, all of these broader issues that we have to look at when we consider issues like this. I’m delighted to see the progress that’s been made and I’m very interested to see what happens in a year or so if the City Council follows our recommendation which I’m very hopeful that they will and that staff will report back.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of January 9, 2006 – COMMISSIONER COOPER MOVED FOR APPROVAL. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.


Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
February 13, 2006

Commission Members Present

Staff Members Present
Angela Wood, Carl Miller, Cody Riddle, Susan Riggs, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Consent Agenda

CAR00-00007/DA/Mod #1/The Sundance Company
Location: Blackeagle Center
MODIFY A DEVELOPMENT AGREEMENT TO ALLOW DRIVE-UP WINDOWS AND FINANCIAL INSTITUTIONS WITHIN A C-4D/DA ZONE.

CUP05-00163/The Sundance Company
Location: 9050 W. Overland Rd.
REQUEST APPROVAL OF A DRIVE-UP WINDOW FOR A BUILDING LOCATED IN A C-4D/DA ZONE.

CAR05-00047/City of Boise
AMEND SECTION 11-6-5.07.03 OF THE BOISE CITY CODE TO ADD THE R-2 ZONE AS AN OPTION FOR A FOOTHILLS PLANNED DEVELOPMENT AND AMEND SECTION 11-4-9.03 OF THE BOISE CITY CODE TO REMOVE THE LAND USE STATEMENTS REGARDING ACCESSORY STRUCTURES.

SUB06-00001/Sewell’s First Subdivision
Location: On the southwest corner of Iowa & Longmont streets east of Broadway Ave.
6-LOT RESIDENTIAL SINGLE FAMILY SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.
COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP04-00088 & CVA04-00037/Oliver Storkan
REQUESTING A 1-YEAR TIME EXTENSION

COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00146 & CVA05-00039/Boise Building Co.
NEW FINDINGS FOR VARIANCE APPROVAL AND REVISED CONDITIONS OF APPROVAL.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00168/Scott Keyser
NEW FINDINGS AND RECOMMENDED CONDITIONS OF APPROVAL.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Deferrals

CUP05-00161/Mesa Falls
Location: 210 N. Maple Grove Rd.
CONSTRUCT A 22,100 SQ. FT. OFFICE BUILDING IN AN M-1D ZONE.

COMMISSIONER VAN OCKER MOVED TO DEFER TO MARCH 6, 2006. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR05-00056/DA/Mike Homan
Location: 4041 N. Edelweiss Street
REZONE 3.8 ACRES FROM A-1 TO R-1C WITH A DEVELOPMENT AGREEMENT.

Angela Wood – Item #1 is a result of the January 23, 2006 hearing. The decision on this was held over so that a development agreement could be prepared. Previously the applicant was
requesting R-1C zoning from A-1. The property is located with frontage on Edelweiss Street. It is a parcel located around the house currently fronting on Edelweiss. The Comp Plan land use designation was 4.0 dwelling units per acre. Previously the applicant proposed a 15-lot subdivision with the result in density of almost 4 dwelling units per acre. The applicant received a substantial amount of public concern. Now the applicant has submitted a development agreement and is proposing 10 total buildable lots which significantly reduces the density though the Comp Plan designation is still higher. Staff has addressed the development agreement in an addendum review. There was a staff memo for this evening, a description of the request and then a request for deferral. But there’s also a second staff packet that has reviewed the development agreement and after reviewing this against all applicable criteria, staff finds that limiting the development to 10 lots is acceptable. The findings for that area addressed in the staff memo.

Whitney Kirkpatrick (Applicant/Landmark Engineering & Planning/104 9th Ave. South/Nampa, ID.) – We were deferred to the hearing this evening to come back with a development agreement reducing the number of lots and we submitted that so we are reducing our number of lots from 15 to 10. It reduces our density to 2.6 units an acre which is a very low density. It seems to be appeasing the neighbors. There were several other concerns that came up during the hearing and I made sure to bring up in testimony that we weren’t able to make those allowances if we did this lot reduction. Because we reduce it to 10 lots it’s no longer viable for us to have the condition to put the garages in the rear. That was our primary concern because now that’s gone from being a neo-traditional subdivision with garages in the back, it’s now going to be a traditional subdivision where we looking at traditional housing styles and will no longer have the garages in the rear. We are coming back with a reduction to 10 lots and a much lower development with this development agreement.

Commissioner Russell – Do you have a revised lot layout?

Ms. Kirkpatrick – We do. The actual configuration is not much different. The lots are much wider than they were in the original layout.

Commissioner Brunelle – I’m trying to recall whether the Commission also adopted a requirement that the 2 lots in the rear, at the west end of the parcel, were to have 1-story units.

Ms. Kirkpatrick – That was brought up at the hearing. That is not one of the clauses in the development currently. The only clause that we’ve included is that the number of lots has been reduced to 10.

Commissioner Brunelle – I thought that was a part of Commissioner Russell’s motion.

Commissioner Russell – It was something that we had talked about. We really didn’t make a motion. We deferred it so they could go back and create the development agreement and bring it before us for a motion. It was definitely something that we heard a lot of testimony on and I
think it was some direction that we gave to the applicant hoping that they might go back and consider that, but it doesn’t look like it’s in this development agreement.

Ms. Kirkpatrick – Our argument would be that now that we are coming back with extremely low density for an infill project, it’s basically unfeasible for us to go in and have those other conditions on a project. We should be able to do up to 4 units per acres, we’re going down to 2.6 which is very low for infill. It is unfeasible for us to go ahead and have those other conditions placed on the project.

Commissioner Brunelle – Angela, what’s your recollection?

Ms. Wood – We did discuss it and I reviewed over the minutes, but we did hold the decision for this evening in waiting for the preparation of the development agreement. One thing I would like to point out is that the subdivision is not being heard tonight. We’re only considering the rezone so those findings of compatibility with the Comprehensive Plan and compatibility with the area is what I considered in my memo describing the development agreement. Being that it is limiting the parcel of land to 10 units and not linking it through the subdivision plat to an exhibit of that subdivision plat, the applicant didn’t include the design perimeters within the development agreement because the subdivision will be brought in at a separate time. If you’d like to read into the record, that direction for Council to make the end determination, that would be acceptable.

Commissioner Wilson – Then for a point of clarification from Legal, this is just the rezone and development. It’s not the subdivision.

Ms. Wood – That’s correct.

Linda Dixon (12777 W. Ginger Creek/Boise/83713) – As I understood what you are saying tonight is all they are asking for is the rezone to change the density, is that correct and this is not being considered or approved tonight?

Commissioner Wilson – Correct. It’s just the rezone and then limiting the number of units that can be put on the property to 10.

Linda Dixon – Can we still say that we think it should be 8 because that’s what’s behind it? I would just like to stay that. The subdivision that’s right behind it is almost exactly the same amount of property as this piece is and it has 8 units on it and it’s pretty tight and those were the people that were complaining about the fact that the garages were going to be right up against their back fence when they are right up on their fences too. We state that we would prefer to have no higher density than what is in Wagon Wheel.

Gretchen Rawer (4062 N. Chatterton/Boise/83713) – I’m along the fence where we discussed getting a single story in there. I did want to reiterate the point that 8 units would be lovely. Will
we have a chance to come back and discuss the actual homes that are going to go on there? Is that a whole other discussion or is that linked to this because it depends on the density if we can have single story or 2-story, etc.?

Commissioner Wilson – It will come through as a separate subdivision plat.

Jill Fiderlick (4096 W. Chatterton/Boise/83713) – I’m also to the west of what is proposed. You are not mistaken. In the discussion at the last hearing you discussed four things. Commissioner Russell had said 8 minimum homes, 10 maximum homes. I can’t remember who said 30 ft. from the back fence to the building structure. Garages were to be in the back and single stories for the two lots to the west. Those were the four things discussed. I got this little notice in the mail I guess to defer this, to rezone this to the 2.6 which I appreciate. We all of course want less and we’re not going to beat around the bush on that one, but 2.6 is better than the 8.0 which was originally proposed. Are we going to get something in the mail when it comes time to talk about single story, how far from the fence, all that?

Commissioner Wilson – I will ask staff to clarify that for everybody.

Ms. Fiderlick – I would like to request that when I look at this little form that I was given last time I was here, we are now between an R-1A and an R-1B plan. The rear fence is 30 ft. to the structure and the side is 10 ft. Staff last time quoted 5 ft. for the sides. Since I am probably going to have that side in my living room, in my kitchen, in my bedroom, I would really like for it to be not an R-1C measurement, but the R-1A and single story.

Commissioner Wilson – I wasn’t here at the last meeting where this was taken up. Was it the rezone, the development agreement, and the subdivision and is it different this time. It sounds like a lot of subdivision kinds of issues were discussed last time and I’m wonder why that’s not included this time.

Ms. Wood – At the public hearing, which this decision was held over, so whatever was discussed previously, the decision you have before you this evening is just limited to the rezone which accompanied by the development agreement. Previously there was a subdivision plat and a rezone minus the development agreement, so the extra time was just allowed so that a development agreement could be prepared. A development agreement wasn’t on the table last time. During testimony there was subdivision comment and rezone comment used together rather than us separating the two requests out. The reason the subdivision plat isn’t before you is that it’s not required to accompany a rezone unless it is linked by a development agreement, which it’s not in this case, and secondly that was not prepared at the time that I wrote this staff report. It hadn’t yet been turned into our Subdivision Department which is the reason for our first memo requesting that the applicant still work with subdivision staff to prepare that.
Commissioner Wilson – With the subdivision, when it does come forward, how is that process going to be handled and will there be notification and another opportunity for the public to provide input?

Ms. Wood – Subdivisions are similar to rezones in that they take both your recommendation and then final determination by City Council. Neighbors would have the opportunity to speak about that subdivision in the public hearing process. The notification though is not similar because they will not receive radius notices for subdivision.

Commissioner Wilson – Then the neighbors need to watch for when it comes up before Planning & Zoning again?

Ms. Wood – That’s correct and City Council agendas are available to the public and they need to watch when a subdivision is going to be coming up on their agenda.

Commissioner McLean – Would it come to us first before it goes to City Council?

Ms. Wood – That’s correct and City Council agendas are available to the public and they need to watch when a subdivision is going to be coming up on their agenda.

Commissioner McLean – I know that at other times you have the legal notification but you also notify but you also notify parties of interest. Could something like that be done tonight for this subdivision?

Scott Spjute – Your question is can we send a notice when the subdivision comes out to interested parties?

Commissioner McLean – Right. I’m wondering if aside from the legal notification requirements you go through if there were something the Department could do to notify these people here, the parties of interest when that comes forward? We’re hearing a lot tonight and we heard it last time too about something that now, because of the way that this has happened, we’re going to be considering later.

Mr. Spjute – A division of property, in accordance with zoning standards, is an outright allowed use just like obtaining a building permit for a home is an allowed use. We don’t send notice to surrounding property owners because there’s no statutory nor local code requirement that we do so. If you want to direct Planning to send notice to whomever, we’ll do it. We would not normally do it.

Commissioner Russell – If there were any other conditions of approval that we wanted to apply to this project would it just be best to make a motion to put those in the development agreement or would it be best to wait until the subdivision comes through? If we were going to address setbacks or building heights, etc., would it be best to recommend they go into the development
agreement, or is just a condition of approval of the rezone? What would be the best way to handle that?

Mr. Spjute – It would be pretty unusual to dictate a home style or home height in a development agreement like this, especially on a single family home which is considerably short of the normal density allowed or suggested by the Comprehensive Plan. If you can provide a rational reason for attaching an additional condition of approval, then I suppose it’s legally defensible, but I think I’m pretty safe in saying that there’s not a home out there within a mile that had any sort of condition regardless of who lived next door before them or who didn’t like the house that was going in. This subdivision complies with the zoning dimensional standards. It’s just allowed in the zone and that’s why we don’t send notice. It complicates the matters if you ask us to send notice because the subdivision platting process is a lot quicker. They can turn in a subdivision plat and have it on a public hearing agenda in a very short turn-around, under two weeks in some cases, and yet our normal notifications that we do require much longer than that. So if we’re going to have a public hearing and send notice for a subdivision, we’re going to have to do our processes completely different and have a much longer review time and longer time to get that subdivision to a public hearing. If you want to attach conditions, if you want to dictate the style, size, height or setbacks of a home, the only way to do that is in a development agreement. It could be done in a subdivision but putting zoning requirements on the face of the subdivision plat is not good practice because the process for reviewing or changing those, when they are on a subdivision plat, is much different than our normal zoning procedure.

Kari Minas (12977 W. Paint Dr./Boise/83712) – We’re not trying to dictate that they can’t have 2-story houses. We are just asking for some consideration. We understand that people don’t generally have to go in and have the type of zoning where they are dictated to have one level or 2-story houses but that was kind of a land-locked area and all these houses have been built around it. It’s really weird to think that there’s going to be like I’ll have 2 houses in my back yard looking straight back at me. I just really hope that they choose to put 8 houses in there instead of 10 and consider the houses around there because this will just not fit in having cram packed houses in that area.

Scott Hall (12851 W. Ginger Creek/Boise/83713) – When we left last time, Commissioner Russell did motion some specific things that the developer answered and agreed to and the term development agreement was part of that agreement. It was minimum setbacks which were changed significantly from the first proposal. It did address single story houses only on two lots and I’m sure anyone here wouldn’t have a problem understanding that. You can’t take cutter laws and apply them to everything. This is a unique situation. This subdivision is very unique and most of it has been there a long time. I think that listening to staff; they are saying yes they can do things, but they don’t want to. So it is legal, it is possible for you to ask them to do that and they will begrudgingly follow your request. Also there was the 10 units and the minimum setbacks and then this was then motioned and presented if these terms were acceptable to the developer. Mrs. Kirkpatrick agreed that they would do that. So apparently I’m not familiar with how this works, but people have found out legally they don’t have to, but you can enforce some
things that maybe a little bit outside the box that take a greater interest in what’s really going on over there. The property directly to the north is almost exactly the same size. It has been very successfully developed with 8 units. All the utilities are that much closer to this land so I don’t understand why they can’t successfully develop this land with 8 units and adhere to what we are asking. Every time they have spoken they have said they are willing to work with us, but now they are sort of coming through the back door. There were specific things addressed that they’ve apparently ignored. How do we trust that they are going to do what they say as you continue to approve these things. I think there needs to be some accountability.

Commissioner Russell – Could staff tell us what the side setbacks are in the R-1C and the R-1A?

Ms. Wood – In comparing R-1C vs. R-1A setbacks, I have this diagram which I showed at the public hearing last time. This demonstrates for an interior lot for R-1C, the front setback would be 15 ft. with a side or rear entry garage much like what the applicant was first suggesting with their first subdivision application which we are just considering the rezone, interior setback of 5 ft., rear setback of 15 ft. This is different from an R-1B or R-1A zoning designation which is 30 ft. in the rear, 10 ft. on the side, and the same front setbacks. Often subdivision plats also incorporate a 10 ft. plat boundary easement offering further spatial separation under the R-1C zoning designation. A point of clarification, the subdivision to the north, Wagon Wheel, is being described by area residents as 8 lots, but it’s not. It actually has 10 buildable lots currently and then a 12th buildable lot. The density there is on 3.93 acres is 2.79 lots per acre as opposed to just being 8 units.

Commissioner Russell – That 10 ft. buffer that you are talking about, that easement that goes around the boundary, that will dictate the two lots on the western end, that those houses will have to be setback a minimum of 10 ft., is that correct?

Ms. Wood – The zoning requirement would only require a 5 ft. setback measured from an internal property line to the home. I can’t speak to the peripheral easement because the subdivision plat hasn’t been reviewed yet. But if you did want to speak to that in the minutes for them to consider at City Council, we could do that this evening.

Commissioner Brunelle – Has your recollection changed since I last asked you, based on the public testimony, about what was in the motion by Commissioner Russell and what we adopted, the development agreement because it’s my recollection is there were four things, not one thing.

Ms. Wood – I understand, but the formal motion was held until this evening to then be able to review a development agreement that would be before you. Though we spoke of that on January 23rd, what’s binding this evening is the development agreement that’s included in your packet. Whether you make the motion to deny what’s before you or approve it, you can use those other three elements to do so.
Ms. Kirkpatrick – The reason we’re coming back with a development agreement and requesting the single condition to limit this to 10 lots is that the project has fundamentally changed with the drop in density. We originally were actually much more in alignment with the Comprehensive Plan with our original product where we were close to the target density of 4 units an acre. We’re providing a diversity of housing types. With the drop in density we’re now providing a much more traditional suburban type development and the conditions which we had offered up when we were doing the neotraditional project with the long narrow lots no longer makes sense with this project. We are making the concession to drop the density. In my opinion as a planner it is a weaker project at this point and I wish we didn’t have to do that drop, but we want to keep the project moving forward so we are willing to make the concession with the density but we are asking that the one concession be the drop to the 10 units.

COMMISSIONER RUSSELL MOVED TO APPROVE CAR05-00056/DA WITH ONE ADDITIONAL CONDITION AND THAT IS THAT ON THE TWO WESTERNMOST LOTS OF THE PROJECT, A MINIMUM 10 FT. SIDE SETBACK BE ESTABLISHED.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Russell – I think based off of our meeting last month that we heard the neighbors concerns. I think the developer has made a pretty big concession here dropping their units to 10 and I think that by just slightly increasing the setback on those western lots that we have a project that’s going to be fairly compatible with the surrounding area and definitely in compliance with the Comprehensive Plan. I think it will be a good project now that we are down to this density.

Commissioner Brunelle – I’m really troubled by what happened here. I’m going to vote no on this motion. It seems like staff has treated our decision from last month as advisory and not a decision. While I can understand and appreciate the concessions that the applicant has made, it seems to me that we weren’t just throwing out ideas when we talked about building height and setbacks. There’s probably a middle ground that can be found here as far as 2-story buildings on the western edge. I don’t know where that would be. This isn’t in a design district so it wouldn’t go through Design Review. The change on not having the garages in the back, I don’t see that as a real big deal because as my recollection of the public comment last time was they had some concerns about the garages in the back facing their back yards. I don’t issue an issue with compatibility on that. I do wish that we would have had the actual transcript from the hearing so we could have resolved just what it was that was said, what the motion was and whether the motion is just a list of ideas from the Planning & Zoning Commission that the staff can play like is a Chinese menu and pick and choose from what they desire or whether we were giving direction. I’m going to vote no on the motion.

Commissioner McLean – I’m struggling with this but I’m going to vote to deny this as well for many of the same reasons. I feel like the change in density didn’t have to change the fundamental parts of this project that I thought were actually pretty nice. I also did feel that at
the end of the day and at the end of that long hearing where we heard from a lot of people that more was going to be done than just the change in density. I too wish I could see more of that and I wish that I hadn’t recycled all my stuff last time because I would have looked it up. I just don’t feel good about this and am going to vote against the motion.

Commissioner Van Ocker – We’re voting on a rezone. I’m getting confused over the discussion that’s occurring up there. We’re voting on a rezone that’s actually rezoning property at a much less density than what they could be doing. I was not present at the other meeting and my understanding of the minutes is that a motion was to defer, not to actually make an approval so that’s what we are doing now. I think that as far as our Zoning Ordinance, it’s going to be very, very difficult to deny this on the basis of our actually rezoning this with this attachment as its zoning designation. I’m definitely going to support the motion and I just caution everybody in understanding that if we are going to deny we’d better have reason for denial and I’m not hearing that.

Commissioner Brunelle – My take on it is we could make a recommendation for an R-1A zone and it would be fully compatible with everything around it because much of the land in that area was R-1A, am I correct?

Commissioner Wilson – We are in the middle of a motion and are unable to ask staff anything further.

Commissioner Brunelle – That was my recollection of what’s in that area and Commissioner Van Ocker is correct, the question here is a rezone but in this case the motion that we adopted at the last meeting was a rezone with a development agreement. I felt that we had struck a pretty good middle ground at the last meeting because we have zoning limitations, R-1A, allowing many fewer units per acre than a R-1B or an R-1C. I felt that Commissioner Russell’s motion from the last meeting where we allowed a higher density zoned, the 1B, but then limited the number of acres was a good compromise. You could always just fall back and have an R-1A zone, but I’m not making that motion at this time.

Commissioner Russell – I think the other thing to consider is it really wasn’t a motion. We made a motion last time to defer so that they could go back and come up with this development agreement and I think we definitely stated some opinions on the record as far as what we wanted to see. I think that they have covered one of them in the development agreement, basically lowering the number of units to 10. I don’t think they did a very good job of listening to our other directions, but I can kind of sympathize as to why that is. There definitely wasn’t a motion that had all those items incorporated into it. It was more of a motion to defer hoping that they would come back with something that we could look at and feel comfortable with. With the lower density and that side setback I am to a point where I feel comfortable with it. I definitely will say on the record that it would be better if they stuck with the same type of housing product that they presented to us at the last meeting, but again I understand some of the reasoning why they are not doing that. I guess I just wanted to clarify that there definitely was not a motion in
the last motion that had conditions, it was a motion to defer. If you recall we had a long discussion back and forth with staff on how we were going to handle that.

Commissioner McLean – That’s how I remember is also, but if I understand correctly what we’re doing now is deciding whether or not we want to approve the rezone with the design with the development agreement that’s before us.

Commissioner Wilson – Correct. I wasn’t at that last meeting but I think what’s happened here is that what we’ve got now is rezone and a development agreement and what was here last time was a rezone and a subdivision. It’s difficult to approve a rezone without seeing what the subdivision is going to look like. I always prefer it when those things come in together. Even though they are not required to come in together, it’s a lot nicer because then you can see it together, you can talk about it in a public forum and it really does make a difference. I really wish the applicant would have done that and come forward with something else other than just the development agreement just because that had already been discussed before. I think that would have been a more open and fair way to do it just because the public hearing process isn’t that friendly to begin with and then when you come and talk about one thing and then you come to the next meeting and you’re presented with something different and not allowed to talk about the thing that you talked about before, at least it’s not encouraged, that really creates an atmosphere of mistrust in the whole process. I think it is really unfortunate that we don’t have subdivision to look at tonight and talk about. But in light of what we do have, which is the rezone and the development agreement, I think with Commissioner Russell’s addition of the setback requirement to the development agreement, I think that is going to help alleviate the neighbor’s concerns. I just wish that since it had come forth with the subdivision last time it would have come forth with the subdivision again so that we could have all discussed it.

COMMISSIONERS IN FAVOR TO APPROVE THE APPLICATION: RUSSELL, VAN OCKER AND WILSON.

COMMISSIONERS AGAINST: MCLEAN & BRUNELLE.

MOTION TO APPROVE CARRIED.

CAR05-00058/WR Gann Co., LLC.
Location: 5891 W. Gary Lane
REZONE .93 ACRES FROM A-1/DA TO R-2D AND TO TERMINATE THE DEVELOPMENT AGREEMENT AT 7335 W. BARÓN LANE.

CUP05-00164/WR Gann Co., LLC.
Location: 7335 W. Baron Ln. and 5891 W. Gary Ln.
CONSTRUCT A PUD OF 39 SINGLE FAMILY LOTS ON 6.46 ACRES IN A PROPOSED R-2D ZONE.
SUB05-00116/Baron Subdivision
Location: On W. Baron Ln. west of Gary Ln. and north of State St.
50-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Carl Miller – This is a rezone of property from A-1/DA to R-2D along with the rest of the R-2D/DA site which will enable 39 single family residential lots for a density of just over 6 dwelling units per acre. Baron Subdivision will enable the division into individual lots and then the development agreement will be met and the applicant would like to terminate that upon final plat approval. The site plan indicates the individual lots with rear access points for both the Queensland housing types to the north of the new private road and boulevard units to the south and court yard units will fill up the site to the rear of the unit. Staff generally supports this development as it complies with many of the Zoning Ordinance and Comprehensive Plan Policies for minimizing garage dominated street scenes, utilizing rear access points and providing a mix of housing types within this general neighborhood. But I’d like to speak specifically about a few of the recommended conditions of approval which staff feels will help enable compatibility and provide a quality project. For second story units on these rear building types, staff has recommended that the second floor be presented to the front façade so that it discourages the garage dominated street scene and provides a visual focus for that area. Also on the second story units to the north of the new road, staff has recommended that those be designed so that they maximize privacy of the existing residential subdivision. Staff has also encouraged the applicant to provide alternative access points back out to roads from the rear service drive. Currently the service drives terminate at the end near Gary Lane which could provide a hazardous condition if the service drive were to be clogged or any parking were to occur in the service drive. Staff has also recommended that the applicant provide amenities. The applicant has stated that they will energy star specifications for building units, dense landscaping within their pocket parks and a possibility of an amenity for the drainage area. Staff would recommend that if that entire area wasn’t necessary for retention, another amenity be provided so that way the quality and safety of the amenity would not be compromised in the overall project. Staff has recommended a 7 ft. landscape buffer between the northern service drive and the existing subdivision. The original development agreement and the one that exists today requires a 15 ft. landscape buffer between the residential units and the existing subdivision to the north. Staff finds that the proposal you have in front of you will lessen the impact of the project on that existing subdivision, however a 7 ft. landscape buffer is still appropriate to provide some buffering between what we have out there right now and also provide a more aesthetically pleasing atmosphere in that there’s landscaping separating the two projects.

Walt Gann ( Applicant) – This was owned by DBSI and was to be developed as mixed use commercial and apartments. As I looked at it, we were going to take the density from 78 apartments down to the 39. Overall, I’m in agreement with the staff’s recommendations. There’s a few things that I would like to discuss that I’ve hired consultants to present that to you.

Commissioner Wilson – For the record we’ve received a colored site plan for the Shadow Hills Courtyard and Patio Homes.
Neil Hosford (Applicant’s Architect/2419 W. State St./Boise) – We want to indicate that our design and development team have had numerous meetings with the staff over the past 3 or 4 months. Out of those meetings we really felt that we gained a lot of insight from the City and the staff in terms of some of the issues that they would eventually have to look at and potentially make decisions about. We really felt overall that we gleaned a great deal of information, very positive input. In a sense it actually lead us to the site plan that you see before you today. One of the primary things that we wanted to try and do was maintain the existing curb cut that you see off of Gary Lane. Rather than suggest any kind of movement or relocation of that curb cut, we felt as though it were in an ideal location to actually incorporate this idea of a boulevard entry into the project that has essentially somewhat of a formal entry. One of the criteria and one of the design concepts that we worked with from the start was that of as you came into the project that you did not see any garages or you did not see any curb cuts on the main entry boulevard that led you down into the project and therefore we are proposing that all of the garage access to these two units types that you see to the north and south of the boulevard all have rear entry garages. What you see as you come into the project along the boulevard, we have also decided that we would like to make the investment in landscaping on the public side of that boulevard and really enhance the landscaping treatment along both sides of the boulevard so that the people that come in that live hear and make the investment in their own private single family residence actually have the visual connection of that landscaping rather than move it to the rear and provide any kind of landscaping along the rear alley. We also are working with the idea of providing porches. All of the units that you see to the north and south, we refer to those units to the north as Queenslander units and those to the south as the Boulevard units. All of those units have a porch immediately visible along the boulevard. Part of that rational is to try incorporate the notion of providing an eye to the street and always maintain a connection to the street, a visible connection to the street so that people can see who’s coming and going. As you move further back into the development, we’ve widened the road into a larger turn bulb. This is also the point where you access the garages back into the alleys. These are 20 ft. wide, 2-way circulation alleys. In the interior of the project referred to as the patio homes or the courtyard homes, all of those do have garages that front the street but there’s been great care taken to herringbone these lot lines and these unit lines along the interior portion of Barren Lane so that you address the issue of garage dominant concerns. One of the things that was an outgrowth of all of the meetings with the staff was their concern about that. That eventually led to us doing this herringbone pattern. Even the garage wall has been articulated with a setback so that as you are proceeding down Barren Lane you really only visually can see one garage door. Then there’s an approximately 16 ft. wide landscape distance and separation between units and then back into the courtyards. The courtyards come forward and it’s part of this notion of creating an eye to the street residential concept. We’ve provided a number of amenities. Some of them are design amenities that are a part of the project that we think really exceeds some of the basic fundamental criteria for amenities, some of the amenities that we’ve provided kind of over and above the standard amenities that you see listed in your staff report. All of these units are all designed architecturally so that every single courtyard has solar access or the ability for the proper solar orientation into these private courtyards. Wherever we have a sloped hip or gable
roof, we always run the roof slope down to the lowest point adjacent to the next unit so there’s always really good natural light/solar exposure into these courtyards and into the living spaces. We think that is definitely an amenity for the project. All of the units are also going to be constructed to these energy specifications. The site plan that you see here today is really an outgrowth of a lot of work and time spent in trying to create the most efficient use of the property and also addresses concerns about the marketing criteria that single family residential buyers are looking for today, specifically that of security. The road system that we’ve proposed really maximizes that security to the point where everybody that drives down these alleys actually lives along that driveway.

Commissioner Wilson – As you close out your comments today for the application if there’s specific conditions that are in dispute in the conditions of approval, could you point those out to us?

Dave Powell (Applicant’s Engineer/River Edge Engineering/405 W. Myrtle St./Boise) – We’d like to talk about staff’s interpretation of the alleyways as a service drive. It’s a 20 ft. wide access that will provide 2-way ingress/egress for the residents that live there. If we need to provide signage for the entryways we can do that to indicate no through traffic, private residence entrance only. It’s not meant to be an access way where you would have mail drop-off, trash collection or Federal Express drop-offs, etc. It’s meant for the residents to access their own homes and where available, provide for some guest parking. There is guest parking on the south side, but we’re so limited with space with the access that’s already provide for us and the type of Queensland layout that we have, it’s really not the normal subdivision type of a layout where we are trying to create a subdivision with some classy alignments of roadways. We have set the subdivision up for three specific home styles and tried best to make the accesses accommodate those three specific styles and maintain that boulevard entrance. On the service drive, we have agreed, along with the Fire Department’s recommendation, to provide them with a secondary access point through one of those driveways. Right now we’re showing it on the northerly driveway that would come out, we would provide some type of a grass creet or bollard restricted access out to Ada County Highway’s Gary Lane. Because of the conflict that would arise, if we were to turn both of those alleyways into public ingress/egress points, because of the main proximity with the main Gary Lane entrance, if you can imagine you’d have 3 intersections all within about less than 125 ft. Ada County restricted distance between intersections. The Ada County Highway District has agreed to the single emergency access but not to provide access through to the others. With regard to the landscape strip, if you can imagine coming in from the north and south, it’s been agreed to that we would install a white vinyl type fence along those boundaries. We’re having a hard time working with staff to visualize who gets the benefit out of a 7 ft. buffer strip along the north boundary when we’re going to have that white vinyl fence that basically gives that buffer between our project and the residences that currently exist on the north. On the south side we’re going to put a white vinyl fence along the driveway in exactly the same layout and DBSI is going to have landscaping on the south side of the vinyl fence on the south boundary. So really we’ve got pretty good continuity the way we’ve got it laid out right now. You do, on either side of the driveways for both the Boulevard units and the Queensland
units, have a pocket in there where we will provide some landscaping but we’re not trying to get any additional landscaping along that north boundary line. It’s important when we talk about access and safety, limited speed, limited alley. It’s not uncommon to see alleys like this marked 5 mph. That, in addition to the fact that they are 20 ft. wide allows individuals coming in to come around the corner, maneuver around vehicles that are trying to move out in a safe manner and so we’re quite comfortable with the layout that we’ve got right now. In addition we had, in a previous layout, had the concept of coming out just before you get to the intersection with a north/south entrance from both the south and the north and it was determined, by the Ada County Highway District in our discussions, that would create an unsafe condition also so we tried to compromise as best we can. We think in limiting that traffic to the garage areas, to the residents that live there who are going to know where their house, where to turn in and how to maneuver in and around that area, that that is a reasonable compromise for all the various scenarios that we’ve presented as possibilities. With regard to staff’s consideration of amenities, I want to take just a minute and clarify the fact that in the west side of the project we do have an open space that is a dual use. On the plan, on the far westerly side, there’s a sand trench for aiding in the percolation of drain water from more intense storms. The drainage for the system basically consists of our east/west running drain lines, the percolation pipes and drain beds, that would take most of the storms up to even a 25-year event, collect that storm water in inlets in yards, run it in that percolation pipe and let that percolate down into the ground. For right up to those intense storms, you wouldn’t see any drainage out in our open/gathering area for the residents. If you had a 25-year or 50-year event, yes the pipe system probably would not handle that maximum amount of water and you would have some overflow out into the pocket park area and then over a 12-hour period, depending on the intensity of the storm and how much water came into this, it would percolate down into that sand bed and you get up the next day and you’ve got your park back. Whether or not the City decides to incorporate that into our requirement for amenities, that’s the intended use that that area is going to have with a side use of being drainage. The other issue with drainage is when we talk about drainage basins, we talk about significant depressions and having water and unsafe conditions for your kids. This is a minor depression. It’s going to have 4 to 5 to 1 slopes that are grassed and down into the bottom area. The bottom area will be sloped back to the drain area and that in time will percolate out but it will have to be mowed and irrigated. It’s going to be a little pocket park with an indentation. We would like the Commission’s consideration for that being classified as one of our amenities. Staff has also recommended that we provide, through the south alleyway, a motor vehicular access into DBSI’s future development. We are adamantly opposed to providing a vehicular access to that area to provide what we consider to be a short-cutting for people who might be shopping or employees of the DBSI facility, and using this as a short-cut to get back and forth through. We are, as we have shown on our plan, providing a pedestrian circulation through to the DBSI center and we also show the cul-de-sac at the far west end where you’ve got school bus turnaround, emergency vehicle turnaround and have that access point, but we do not want to provide a secondary access to the private 20 ft. alleyway. We just don’t feel that is an appropriate place for an access point to cut through there that’s vehicular. When the project was first approved through the DBSI plan the acre of land that is being rezoned today, which are the Queensland units, wasn’t apart of that process. The density of the DBSI plan was 78 units, fairly dense, multi-story, and so they
provided that 15 ft. buffer in there to try and break up those 3-story units from the existing residents to the north. This piece that we’re talking about now in the Queensland, you see the garages. They are single story garages and then we have the alleyway back there. We didn’t feel that it was necessary to provide that 15 ft. nor could we provide it much less the 7 ft. that they are asking now. So because that 1-acre portion wasn’t even in the original plan, we didn’t feel that it was really appropriate to be adding that into a 15 ft. requirement here. Again, I think it’s most important, if we had the 7 ft. in the back we’ve got to take it away from the front and the Queensland roof structure is practically right on the face of the sidewalk so we think it’s more desirable to have landscaping in the front instead of the back.

Mr. Hosford – The plan is that all of the Queensland units are all single level. There are no 2-story units at all in the Queensland units. The units to the north, the Courtyard patio homes, the majority of those units will all be single level and if there were any 2-story elements in those, they would be brought way back from the north property line. There would be no portions of those 2-story units that would be adjacent to the north property line. All of the boulevard units that you see directly to the south are all 2-story units. They abut the commercial zone. The majority of the Courtyard patio home units to the south are 2-story units, however the entire mass is not 2-story, only a portion of them would be 2-level.

Commissioner Van Ocker – The recommended condition of approval #3 that deals with the 1-story building units to the north of Barren Lane, you’re fine with that condition of approval?

Mr. Hosford – All of the Queenslander units are all single story anyway. The developer would like to reserve the right to potentially build some of the units to the north of Barren Lane into a 2-level configuration, but that 2-story mass of that unit would be held clear to the south portion of the actual building structure. There would be no 2-story elements on the north side.

Commissioner Wilson – You don’t dispute condition #3? That’s okay?

Mr. Hosford – Yeah, I guess.

Commissioner Wilson – Do you know what we are talking about?

Mr. Hosford – Yeah, yeah.

Commissioner Wilson – I think we just need to walk through the conditions of approval quickly and make sure that we understand what it is that you are looking to change so we can ask staff about that and talk about those things.

Commissioner Van Ocker – Are you in agreement with condition #4?

Mr. Hosford – Give me the page that the conditions of approval are on.
Commissioner Van Ocker – Page 7, 2-story courtyard units shall be designed with the 2nd story front façade to be aligned at the same front plane as the garage wall.

Mr. Hosford – Yes. Any portion of the 2-story units on the Courtyard units would be held back towards Barren Lane. The units to the north, the 2-story portion, would be held back and to the units to the south of Barren Lane, the 2-story units would be closest to Barren Lane, but probably not just a big vertical flat wall. These units are designed with a small veranda or terrace at the end.

Commissioner Wilson – Condition of approval #6, it sounds like you want to change that one? It sounds like your engineer said that you would not be interested in doing multiple service drives connecting to Barren Lane or using common driveways. This condition is not acceptable to you guys?

Mr. Hosford – That’s correct and we’ve discussed that with staff. Again, our rational there is that as you come into the project and your driving along the boulevard, we do not want any curb cuts or automobile access that would then allow you to see back into some type of perpendicular driveways.

Commissioner Wilson – The next one is 8C that you would like for the storm water retention area to be considered as one of your amenities because it will rarely be under water.

Mr. Hosford – Yes, that’s true.

Commissioner Wilson – Then there’s #10, that you believe that the vinyl fence is adequate and you don’t need a 7 ft. landscape buffer?

Mr. Hosford – That’s correct. If you refer to the plan that I gave you, you can see all of the green area that’s shown to the north of the vinyl fence and you can see a really large amount of buffering between the residential units and the northern property line.

Commissioner Wilson – The next one is #14B which is the vehicular cross access agreement between the planned office development to the south and the service drive to the south, that you don’t desire another vehicular access there?

Mr. Hosford – That’s correct.

Commissioner Wilson – Do you have any others that you wish to dispute that you want us to consider?

Mr. Hosford – No, I don’t believe so.
Commissioner Brunelle – I was curious about condition #8C. Do we have anything on the books as far as ordinance that requires the design of the drainage to be able to handle a 25, 50 or 100-year event? Are there requirements on that?

Mr. Miller – The PUD ordinance does not specifically describe or mention that drainage areas can’t be duplicative of amenities. However staff has found that generally when that occurs it lessons the utilization and the quality of that amenity area. We would see it in the same way if this area was used for a retention area, it would really reduce the desirability of that as an amenity.

Commissioner Brunelle – Do you consider just the rectangular area, the drainage area or the larger polygon the entire drainage area because it would be sloped and necessary to hold water from a rain event?

Mr. Miller – It’s my understanding that this area outlined is the retention area as that will be the entirety of the sloped area.

Commissioner Brunelle – But do we know whether that entire area is necessary to handle the storm event?

Mr. Miller – In speaking with the applicant and the engineer on this it was my understanding that it had not been specifically determined, the size of the area that was necessary, however this was described on the plans.

Rhonda Sandmire (7485 W. Kerry Dr./Boise) – I have some letters written by neighbors who live on Kerry Dr. who wish me to read them tonight for you. I’ve been personally involved in this project for the last 3 years. We have filled this room continuously on projects that DBSI continue to try to sell and get through here. When we first met, these people, they came to me and stated that they wanted to put single story homes adjacent to the Kerry Drive people which is north of the project, so we all went into a meeting. We went great, single story homes that would be perfect because most of the homes adjacent to this property are single story homes. I believe on the whole street there’s like 4. Then we find out that they kind of went behind us and now want 2-storys, they want to buy more property and put more 2-stories. It was when they came back to us they said it was their understanding that the City planner wanted to increase the density of this project. We felt that that would be a determinant to our neighborhood. We used to have bike riding all up and down Gary Lane as we have shown many times to the Commissioners here. Because of all the entrance and exists from these projects, Gary Lane is also known as a bike lane highway. Now our kinds cannot ride their bikes to the greenbelt because they’ve added three new exists onto Gary Lane. Now they are talking about wanting more density. I don’t know how much more density we can take in that area. The school busses had to move about a quarter of a mile outside the drop-off areas because of the high densities on Gary Lane. I would love to see homes in this area. We’re in need of them, but the density is unheard of. I think like everyone said before is why two stories? The average age on that street
is 58.9 years. We’ve been living here for the past 12 to 13 years. We’re not saying don’t develop it, just be reasonable about it. Most of us enjoy, with our grandkids looking, looking out over the fireworks display. Two stories will block that. We hard them talk about the solar of their homes. What about the solar of our back yards there? We spent many, many hours, days, months developing a plan for this and every new buyer wants to come back and say let’s void that. What we are saying is please give a lot of consideration to the old plan, the setbacks. It took us about 7 months to come to the setbacks. There was a fence to go up and there were supposed to be not 3 stories. If they were single stories the setbacks weren’t that dense, but they were going to be no more than 2-stories so that’s where the setbacks came in. All we are asking is give us consideration and the density and the height of the homes bordering the north side. We do have a flood problem.

Mr. Hosford – With regard to the comment about the density, obviously just do the numbers. This proposal is a definite downsize from the previously approved 78-unit apartment complex. This is a single family, homeowner deeded development that carries with it a real great sense of pride of ownership. When you buy that house and you invest your own money, you’re going to take care of that property. Compare that to some apartment complexes and I think the choice is very clear. All of the Queenslander units are all single level. There are no 2-story units on the north side of the project along that front approximate to half of the north side of Barren Lane. All of the units to the north that are the patio home units, some of them potentially might be what’s called a 2-story unit, but the 2-story portion of that house would be pulled clear back to Barren Lane. In terms of the massing of the house there would be no 2-story areas looking down into Alder Point Subdivision. All the Boulevard units are 2-story and the majority of the patio homes, the Courtyard units on the south side of Barren Lane, those would be 2-story also with a portion of the 2-story structure would be pulled north to Barren Lane. The reason for that is to take advantage of the great views of the Boise Mountains. One last condition of approval that we do take exception to is #15B. That is a provision that suggests the garages shall be setback 20 ft. or greater between 3 and 8 ft. from the edge of the service drive. What we are proposing, as a mechanism, the planned unit development mechanism does allow us from flexibility and some requests for consideration of some of these standard dimensional criteria. We are suggesting that we be allowed to build the garages right at the 20 ft. setback from that north property line. We all know about the condition of the 7 ft. landscape strip. We would definitely rather invest the landscaping distance and area in the front of the units along the boulevard rather than at the back. Nobody in the back is going to appreciate the 7 ft. landscaping strip. We’d rather have it out on the front. We are providing two pocket parks internally as you see on the plan that you’ve been given. The areas that have kind of the big sweeping turns of the alleys that go back to these rear garages, those areas are going to be equipped as small pocket parks. They are going to be bermed and there’s going to be interesting landscaping created there. It’s an area that people can come outside and just experience that open space.

COMMISSIONER VAN OCKER MOVED TO APPROVE CAR05-00058 AND CUP05-00164 WITH THE FOLLOWING MODIFICATIONS TO STAFF’S RECOMMENDED CONDITIONS OF APPROVAL: DELETE #6, DELETE #10, DELETE #14B. CONDITION
15B, I UNDERSTAND THE APPLICANT’S INTENT WANTING TO PUT THE 7 FT. LANDSCAPE BUFFER IN THE FRONT RATHER THAN THE REAR, BUT THE WAY THAT THE CONDITION IS WRITTEN IS CONFUSING TO ME. IT’S MY INTENT THAT THAT CONDITION BE MODIFIED SO THAT THE GARAGES ARE NOT SETBACK AND ARE ABLE TO BE PLACED ON THE ALLEYWAY. THAT 7 FT. LANDSCAPE BUFFER THEN OCCURS IN THE FRONT. ALL THE OTHER CONDITIONS OF APPROVAL WOULD REMAIN AS WRITTEN.

COMMISSIONER BRUNELLE SECONDED THE MOTION.

Commissioner Van Ocker – I think this is a great project. I was on the Commission when the numerous applications have come before on this parcel. I think this is tremendously better than apartments. I think it’s going to be a great asset to this area. I think the architecture on the residents is wonderful. I think people are really going to appreciate them so I’m willing to give a little leeway for some of the conditions that they are asking for leniency on.

Commissioner Brunelle – Condition #6, if we strike the entire condition, there was some discussion about allowing some sort of bollard or emergency access. Would that still be preserved?

Commissioner Van Ocker – It’s my understanding that they’ve already made an agreement with the Fire Department to have Fire Department access with a grass creet and they’ve shown that on their site plan. We can modify that condition to say that, if it would held the second, that that connection would be made per Fire Department requirement for bollarding for emergency vehicles only.

Commissioner Wilson – Is that covered in #18 with the fire approval?

COMMISSIONER VAN OCKER – CONDITION #6 READS TO ME THAT THEY WANT TO PROVIDE ACCESS TO BARREN LANE, WHICH I KNOW IS NOT WHAT THEY ARE INTENDING. I WOULD LIKE TO STRIKE THE WHOLE CONDITION OF APPROVAL AND WE CAN SAY THAT A CONNECTION CAN BE MADE TO GARY LANE PER THE REQUIREMENTS OF THE FIRE DEPARTMENT.

COMMISSIONER BRUNELLE – THAT SOUNDS GOOD.

Commissioner McLean – I was supportive of all the amendments except for deleting #14B which is the requirement that there be a connection point between the office development and this subdivision. I think that this is beautiful and I really like it a lot, but I also think that we often regret not having connections from small parcels like this to other areas. I see this as an opportunity for these people here to get to the area below without having to enter and create more traffic on Gary Lane. So because of that, I’m going to vote against this motion.
Commissioner Van Ocker – Maybe I’m reading the conditions incorrectly, but condition 14A says there will be a connection at the terminus of Barren Lane on the southwest corner of the site. I’m looking that that’s at the cul-de-sac, and ‘B’ would be that the connection point mid-parcel at that service access, which I think is too narrow of a connection point and I agree with the applicant on that, if I’m not understand that.

Commissioner McLean – Where’s the other connection?

Commissioner Van Ocker – They are making a connection on the southwest corner. The condition that I deleted is the condition, what I would call, mid-block at the access drive. I don’t want a connection there. I think that’s an inappropriate place to make a connection but there would be a connection in the southwest corner.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB05-00116 WITH THE RECOMMENDED CONDITIONS OF APPROVAL IN THE STAFF REPORT.

COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00173 & CVA05-00052/Central Station Partnership
Location: 1017 & 1019 S. Longmont Avenue
CONSTRUCT A CONDOMINIUM PROJECT CONSISTING OF 29 RESIDENTIAL UNITS ON .58 ACRES IN A C-2D ZONE WITH AN INFILL DENSITY BONUS & SETBACK VARIANCES ALONG LONGMONT AVENUE AND BELMONT STREET.

Susan Riggs presented the staff report with a recommendation of denial.

Jeff Schneider (CHQA Architect & Property Owner/250 S. 5th St./Boise) – Requested approval as request would act as a transitional area between the single family houses in neighborhood to the south and across Belmont and down. There are several properties in the area already developed similar to the proposal. Stated the variance request is in keeping with area development and used as an example the existing bank’s drive-in teller which protrudes out into the new setback line.

Dave Bibeau (Owns Business @ 1024 Broadway/Boise/83706) – Considers the proposal to be a blessing and will replace an eyesore which has caused a lot of problems for property owners in the past but is concerned about the noise generated from existing businesses in the area conflicting with residential uses and hopes the residents are understanding of the noise and right of the businesses to continue to function as they have in the past.

Commissioner Wilson – For the record received a letter from Dave Bibeau.
Patrick Dougherty (1017 Longmont/Boise/83706) – Supports the project. The subject property is in need of some type of redevelopment. Thinks the setback variance would be overreaching and it should be denied as the proposed 4-story building will dominate the area and will set the tone as to what is developed in the area over the next 15 years.

Joshua Howson (1019 Longmont/Boise/83706) – Proposed condos will be out of price range for existing residents in the area to afford. Requested that a cap be put on the rent for the current residents that live there now so they aren’t forced out.

COMMISSIONER BRUNELLE MOVED TO DENY CUP05-173 AND CVA05-52. COMMISSIONER RUSSELL SECONDED THE MOTION.

COMMISSIONERS IN FAVOR TO DENY: BRUNELLE.
COMMISSIONERS AGAINST MOTION TO DENY: VAN OCKER, MCLEAN & RUSSELL MOTION FAILED.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP05-173 & CVA05-52 AND BRING BACK FINDINGS AT NEXT HEARING FOR THE COMMISSION’S APPROVAL.

COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00147 & CVA05-00045/Jan Higginbotham
Location: 1217 S. Roosevelt St.
CONSTRUCT A 4-UNIT RESIDENTIAL PUD ON .54 ACRES WITH A VARIANCE FROM THE REAR YARD SETBACK IN AN R-1C ZONE.

Cody Riddle presented the staff report with a recommendation of approval.

Jan Higginbotham (Applicant/1217 S. Roosevelt/Boise) – Submitted colored site plans to the Commission. Concurred with the conditions of approval with the exception of condition #3 and asked the Commission to consider some other options. Urged approval as there is a severe lack of moderately priced homes near the core of Boise. Existing structure will be maintained due to its historical ties to the neighborhood. The variance request is in response to the neighbor’s garage to the north sitting right on the property boundary.

Elizabeth McAlister (4219 Kootenai/Boise/83705) – Doesn’t want that many units within 20 ft. of her back yard.

Elizabeth Gross (4216 Teton/Boise/83705) – Has lived on Teton Street since 1955 and the fence between her house and the house at 1217 Roosevelt has been in the same place since then. The contractor is now stating the fence has to be moved because it extends 13 inches into their
property. Does not want to move the fence and doesn’t want a duplex next door as it will be too much on too small a lot.

Trina Wilkinson (4222 Teton St./Boise/83705) – Concerned that the density of the proposal will disturb the continuity of the neighborhood and families will not move into the units as there is no yard space for children to play. Also concerned about construction, traffic and general noise created by the units. Against the request.

Mary Schmidt (6110 Randolph Dr./Boise/83709) – Grew up in the neighborhood. Presented at packet of visuals to the Commission. Proposal does not fit the neighborhood either physically, architecturally nor with the neighborhood atmosphere for a family neighborhood. If setbacks are waived, there will be no buffers for adjacent residences. Existing fence between 2 properties has existed since the early 1950’s and 2 feet of property will not be given to developer for the PUD.

Curtis Hoovestol (1209 S. Roosevelt/Boise/83705) – Lives adjacent to the subject site. Opposes the plan as it is too dense for the site.

Stephen Gross (1156 Ironside/Boise/83706) – Grew up in the neighborhood. Proposal will do a disgrace to the area. Existing house should be bulldozed and only build what is legal and meets setback requirements.

Christina Jones (1967 Teal Ln./Boise/83706) – Grew up in the area and has moved back and is looking for a newer home in the Boise core area. Feels the proposal is a good opportunity to meet that type of need and will increase property values in the area and generate a new influx of families into the neighborhood.

Emilie LaMarche (4304 Teton/Boise/83705) – Chose to live in the neighborhood because of the large established back yards and mature trees. Wants to sustain this quality of life in the neighborhood and so is against the proposed development.

Maria Manning Floch (4308 Teton/Boise/83705) – Chose to live in the neighborhood for the well maintained yards, the dead-end street, the high-quality neighborhood school, the mature landscaping and the established families. Asked for denial of the development as it does not meet the design goals, 7.1 and 7.2, of the Boise City Comp Plan.

Larry Ryals (4304 Teton/Boise/83705) – Does not feel the development would be compatible with area houses and would probably turn into rentals instead of single family dwellings. Against.

John Gannon (Representing the Depot Bench Neighborhood/1104 Johnson/Boise/83705) – Concerned about the entrance onto Roosevelt and its affect on pedestrian, bicycle and other traffic. Comprehensive Plan Policies 6.1.4.3 and 7.2.4.5 should be closely looked at in reviewing this proposal.
Arland Condie (4311 Teton/Boise/83705) – That area has been surveyed many times over the years and if the boundary is wrong at this development, then they are wrong on every house on that street. There’s too many people on the street right now. Proposed yards would be too small. Against development. They will just turn into rental units.

Patrick Daly (4222 Teton/Boise/83704) – Proposal would put too many cars on Teton and parked cars will block the fire hydrant.

Jane Suggs (200 Louisa/Boise/83712) – The City should abide by its goals to add density where infrastructure already exists and where schools need the families. In support of the application as it provides housing choices. Fully supports application.

Bill Whitehead (280 N. 8th St./Boise/83702) – Believes that a lot of the change going on is very positive in that it provides a revitalization of the communities which in turn requires a lot of new building. This type of development really needs to be considered.

COMMISSIONER RUSSELL MOVED TO DENY CUP05-147 & CVA05-45.

COMMISSIONER BRUNELLE SECONDED THE MOTION.

Commissioner Russell – I just find this design to be kind of a hog-pog of a design. I definitely think there are some aspects of it that are in line with the Comprehensive Plan. I think that it does provide a variety of housing types. I think it probably provides some affordable housing in the area. I think it does provide housing that probably is compatible with families, but I think there are some conflicts with transportation and the fact that we’re going to have cars backing out onto Roosevelt Street. I think we have that situation a lot up and down that road and I think years ago it probably wasn’t a major issue, but I think Roosevelt has become a lot busier transportation corridor and I’m not so sure that we should add to that. I think that I agree with one of the gentleman who spoke here earlier that you probably could create a nice housing development here on this corner lot if you just remove the existing house and went back to the drawing board and tried to create a type of housing unit that is more in line with some of the existing housing in the area. I think that providing houses that are similar to what’s on Teton that perhaps are a little closer to Teton that perhaps are a little closer to Teton St., not fronting Roosevelt, and having some nice rear yards without all these little pockets of yards that we are seeing here. I don’t really find these yards to be healthy. Unit C has a fenced yard on the north and a fence yard on the south. I can’t even imagine having to mow that thing on a weekly basis. It just doesn’t make sense. It’s one of those situations where they have a lot with a house on it and how many more units can they cram onto it without putting any thought into it. I think by removing it and going back to the drawing board they could still meet the goals of the Comprehensive Plan without sacrificing the integrity of the neighborhood.
Commissioner Brunelle – A little over year ago, I see some similar parallels to a similar proposal that we faced out on Liberty where there was an existing home and then a proposal to fit more units around it. With a vigorous debate I think it was a split decision that Chairman Fadness had to break the tie that night. It was appealed and the City Council actually overturned our decision and staked pretty heavily a concern about fitting in and compatibility with the rest of the neighborhood. That pattern may not be exactly be the same, but I think the lesson to be drawn is real similar that when we have these parcels that there’s clearly more room for at least one unit on this parcel, maybe two, when you want to keep the existing home site on there then you’re going to have to compromise how much you can build on that site. Similar to that proposal that was overturned, I think this one just goes too far. Unit C is a concern to me because of the turn-around to access Roosevelt. Commissioner Russell pointed out some very practical problems with the yards. With respect to the property lines and whether that’s something that the Planning & Zoning Commission addresses or whether that’s something addressed in civil court, in my view when we make a decision to approve a conditional use permit we have to base that on evidence that was presented at the hearing to establish that these units fit and are compatible with other uses in the neighborhood and that the site is large enough to accommodate the proposed use, all yards, open spaces, pathways, walls & fences, parking, loading, landscaping and other such features as required by the title. In my view the evidence isn’t there when it’s been presented that there’s some differences on what’s surveyed versus what’s been in place with the existing fencing to the west of the property. For those reasons it’s why I’m supporting the motion.

Commissioner Wilson – I do agree that we should be attempting to do infill wherever we can. I think it’s important for the city. I think it’s important that we look to the farmland surrounding the city and be able to preserve that by putting the density where it makes the most sense which is where we have schools and infrastructures and that sort of thing. I too am troubled by Unit C here and that the way that the yards are set up. I think that there is merit in maintaining the existing house because as was stated, it’s an historical structure and I could see from the presentation that a lot of work has already gone into that structure. I think one or possibly two other units are possible on this property, but three seems to be going a bit too far. To address the property line issue, that’s something that we really don’t discuss in our purview here. We have to just go by the evidence that we are presented with and that is a civil matter is outside so I’m not including that in my comments at all. I want to recognize that we should be doing more infill. I think this is a lot that can handle it but I think this is just pushing it a bit too far and that there’s not really a case for a hardship on this lot to merit a variance. I think it’s just a case of putting too much into one area.

MOTION TO DENY CARRIED UNANIMOUSLY.

CUP05-172/Kappa Sigma Fraternity Corporation
Location: 1217 S. Michigan St.
REQUEST TO UTILIZE AN EXISTING BUILDING AS A FRATERNITY HOUSE FOR UP TO 10 RESIDENTS IN AN R-2D ZONE.
Cody Riddle presented the staff report with a recommendation of denial.

Kelly Higgins (Applicant’s Representative/1408 Grant Ave./Boise/83706) – The request now meets the parking requirements that the Commission is looking for. Fraternity is compatible with area as the area is primarily residential rental housing. There will be no other uses on the property. Subject site is only 282 feet away from the Boise State campus. There has been no noise complaints filed against the fraternity at this site. The site has been improved with landscaping. The use will provide an appropriate transition between the University and residential uses. Proposed use will not generate any additional vehicle trips per day. The home was constructed as a nursing home with 12 residents, fraternity will have 10 at maximum. Doesn’t see the building being used as anything but rental property for students next to the University.

Fred Fritchman (Representing the Southeast Neighborhood Assoc./1321 Denver/Boise/83706) – Stated the Association has voted to oppose this application and presented a petition signed by 65 neighbors in opposition. Also submitted letter of opposition from a homeowner sharing the alley with the fraternity house. Nothing has changed in the new application except the parking layout. Several other factors were voiced in the previous hearing for the denial. Parking is a problem in the area and proposed use would generate much more than a single family use. Fraternity has not sufficient demonstrated that they care about the neighborhood. They have had Code Enforcement action against them and in October of last year 34 citations were issued against them for underage drinking. A fraternity house is even more intensive than multi-family houses because it serves more than just as a residence. It is an event center.

Judy Sopatyk (2176 Toluka Way/Boise/83712) – Owns rental units in the area. Doesn’t feel the fraternity is compatible with the neighborhood.

Carolyn Fritchman (1321 Denver/Boise/83706) – Subject neighborhood has been unfairly labeled as a college rental neighborhood. It is a predominantly working class neighborhood with young families and retirees. The neighborhood plan has been adopted into the City’s Comprehensive Plan along with an assurance that university intense uses would be prohibited in the area. Fraternity is not only a business but a highly disruptive university use and will drive away homeowners.

Susan Ballenger (1110 W. Hale St./Boise) – Read a letter into the record from Nick Ballenger who is against the application as it will severely impact the single family neighborhood.

Brian Lawatah (1217 Grant Ave./Boise/83706) – Member of fraternity. The fraternity adds structure in the members’ lives. Rules and regulations of the house will be enforced.
Lisa Sanchez (1225 S. Vermont Ave./Boise/83706) – Does not feel the Kappa Sigma Fraternity has attempted to make a positive impact in the community and does feel they can be counted on. They can relocate on the University and not be in the neighborhood.

Sara Orton (1808 W. Hale/Boise/83706) – Before the fraternity moved in it was quiet. Has noticed increased on-street parking on the block. Cutters in up and down the street are littered with beer cans, fast food garbage. More people have been going in and out from the property. Greek houses need to band together and push for a fraternity row from the University.

Kathy McFadden (1330 Michigan/Boise/83706) – Contacted the fraternity about getting involved with the neighborhood association. They never did. Attended a fraternity meeting and were told the fraternity knew nothing about the neighborhood association or clean-up day even though flyers were put on their porch.

Russ O’Leary (6360 E. Gateway Ct./Boise/83706) – Member of fraternity house. Has been working on getting a Greek row in conjunction with BSU. The only offer to the fraternity from BSU has been a small wing in one of the old dorms which is only 5 or 6 rooms. A Greek row is nowhere in their 20-year plan. In that plan however, there are several University structures proposed for the neighborhood including a parking structure, a new health science building, 2 new dorms, etc. Feels subject property is the best possible spot for the fraternity. Fraternity members go out every Sunday and pick-up trash in the neighborhood.

Robbin Fisher (8195 McMullen/Boise/83709) – Member of fraternity because of the structure. Their primary focus is school. Facility has been transient because of inability to purchase a home until now. A lot of the neighborhood is rental.

Richard Moerles (1217 Michigan/Boise/83706) – Urged anyone to stop by the house and assure appropriate measures are taking place. Urged approval.

COMMISSIONER RUSSELL MOVED TO APPROVE CUP01-172 WITH THE FOLLOWING CONDITIONS. THE HOURS OF OPERATION FOR THE HOUSE SHALL BE 9 A.M. TO 10:00 P.M. THE SECOND THEY NEED TO PROVIDE A LOCATION FOR THREE-YARD DUMPSTER WITH ADEQUATE SCREENING PER THE BOISE CITY ORDINANCE. IF THERE ARE THREE CITATIONS, WHETHER IT BE ALCOHOL, NOISE VIOLATION, FIGHTING, LITERING, ETC. THAT IS ASSOCIATED WITH THIS ADDRESS, THEN THE CONDITIONAL USE PERMIT CAN AND WILL BE REVOKED BY THE CITY. I THINK IT WOULD BE A GOOD IDEA TO HAVE SOMEONE ELECTED FROM THIS FRATERNITY TO SERVE ON THE SOUTH BOISE NEIGHBORHOOD ASSOCIATION AND WILL BE ACTIVE AND ATTEND ALL THEIR MEETINGS. THAT WILL CONTINUE FOR THE DURATION OF THE OPERATION OF THE FRATERNITY AT THIS LOCATION.

COMMISSIONER SHALLAT SECONDED THE MOTION.
COMMISSIONER RUSSELL MOVED TO AMEND THE MOTION TO ADD THE APPLICANT PROVIDE SOME LANDSCAPING IN THE MEDIAN IN FRONT OF THE HOUSE THAT IS SIMILAR TO THE LANDSCAPING THAT THE REST OF THE NEIGHBORHOOD ASSOCIATION HAS BEEN IMPLEMENTING THROUGHOUT THE NEIGHBORHOOD AND HAVE IT DONE BEFORE SPRING IS OVER.

Mary Tyree (Legal) – Asked for clarification on two conditions, hours of operation being 9 a.m. to 10:00 p.m. Does that mean all activity? Also on the condition of no more than 3 citations, is there a time limit on that such as 3 citations in 3 years or in perpetuity?

COMMISSIONER RUSSELL – HOURS OF OPERATION MEAN ANYTHING THAT’S ABOVE AND BEYOND JUST NORMAL LIVING THERE, IE. ANY CHAPTER MEETINGS THEY MIGHT HAVE, ANY TYPE OF FRATERNITY FUNCTION THEY MIGHT HAVE HAS TO HAPPEN BETWEEN THE HOURS OF 9 A.M. AND 10 P.M. MORE THAN 3 CITATIONS IN A 3-YEAR PERIOD WILL RESULT IN THE REVOCATION OF THE CONDITIONAL USE PERMIT.

COMMISSIONER SHALLAT – THE SECOND WILL CONCUR.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

Approved:

__________________________
Brandy Wilson, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
March 6, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Doug Cooper & Lauren McLean.

Staff Members Present
Angela Brosious, Cody Riddle, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Deferrals

CAR06-00004/Doug Tamura – COMMISSIONER WILSON MOVED TO DEFER TO APRIL 10, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00161/MESA FALLS – COMMISSIONER COOPER MOVED TO DEFER TO MARCH 13, 2006. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00001/Horizon Development, LLC.
Location: 824 & 826 N. Maple Grove Road
CONSTRUCT A PUD CONSISTING OF 40 CONDOMINIUMS ON 3.68 ACRES IN AN L-OD ZONE.

SUB06-00002/Carmela Villa Condominiums
Location: On the east side of N. Maple Grove Road between W. Emerald Street and W. Susan Drive.
40-UNIT RESIDENTIAL CONDOMINIUM SUBDIVISION.

SUB05-00119/Fourteenth Street Condominiums
Location: Located @ N. 14th St. and River.
1 LOT-4 UNIT CONDOMINIUM SUBDIVISION.
SUB06-00006/Bench Condominium Subdivision
Location: On the east side of Curtis Road south of Cassia.
1 LOT/72 UNIT RESIDENTIAL CONDOMINIUM SUBDIVISION.

SUB05-00093/Albion Subdivision
Location: On the south side of W. Albion St. between Roosevelt and S. Garden
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER ELLSWORTH MOVED TO APPROVE
THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF
LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF
REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00173 & CVA05-00052/Central Station Partnership
ADOPTION OF FINDINGS

COMMISSIONER WILSON MOVED TO ADOPT THE FINDINGS OF FACT AS
SUBMITTED BY STAFF. COMMISSIONER MCLEAN SECONDED AND THE MOTION
CARRIED UNANIMOUSLY.

CUP05-00147 & CVA05-00045/Jan Higginbotham
ADOPTION OF FINDINGS

COMMISSIONER WILSON MOVED TO ADOPT THE FINDINGS OF FACT AS
SUBMITTED BY STAFF. COMMISSIONER MCLEAN SECONDED AND THE MOTION
CARRIED UNANIMOUSLY.

CUP05-00172/Kappa Sigma Fraternity Corporation
ADOPTION OF FINDINGS

COMMISSIONER MCLEAN MOVED TO ADOPT THE FINDINGS OF FACT AS
SUBMITTED BY STAFF. COMMISSIONER WILSON SECONDED AND THE MOTION
CARRIED UNANIMOUSLY.

CAR06-00006/PK Investments
Location: 5004 W. Targee Street
REZONE 1.75 ACRES FROM R-1B TO R-1M
COMMISSIONER COOPER MOVED FOR APPROVAL OF CAR06-00006 FROM R-1B TO R-1MD BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS STATED IN THE STAFF REPORT.

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Cooper – I think this is an appropriate rezone that provides a transition to the lower density adjacent. By using the R-1M designation we have a more street oriented presence and avoid the back yards facing the street with a cul-de-sac access.

Commissioner Wilson – Adding the design overlay to it also enhances the support for doing the rezone in this area.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00007/Brad Parsons
Location: 1410 S. Longmont St.
REZONE .24 ACRES FROM R-2 TO M-1D

Angela Brosious – Item CAR05-00007 is a request for a rezone of .24 acres located at 1410 S. Longmont Ave. from R-2 (Medium Density Residential) to R-1M (Single Family Residential with Modular Lotting). This site currently contains a duplex and a single family dwelling. The subject property is in the Southeast planning area, part of the SENA neighborhood association. The Boise City Comprehensive Plan Land Use Map designation is medium density, 15 dwelling units per acre. The Land Use Zoning Consistency Matrix identified R-1M as a permissible zone for this land use designation. The R-2 zone is a medium density multi-family residential zone. The R-1M zone is a single family zone that allows for attached or detached homes on narrow lots with alley-loaded parking. The R-1M standards will allow the applicant to build single family dwellings while maintaining the desired density. The R-1M zone is considered to be a less intense zone than the R-2. The maximum density allowed in the R-1M zone is 12 units per acre versus 14.5 units per acre in the R-2 zone. The R-1M zone has specific design standards regulating modulation, materials used, open space and parking while the R-2 does not have any design standards. If this rezone is approved the development will have to comply with the design standards of the R-1M zone including front doors facing the street and alley access parking. There are many comprehensive policies that support this type of development, but because this application does not include any specific development plans, which rezone applications generally do not in the R-1M, staff has recommended that the applicant add the Design Review overlay to this and rezone it to R-1MD. The applicant has agreed to do this. This site is currently not in a Design Review Overlay District, it’s just zoned straight R-2. By adding the Design Review overlay this should help address some of the neighbors’ concerns about the impact of the design on the neighboring properties. This property is across the street
from a Taco Bell and their parking window. The Taco Bell also has a drive-up window, but single story, single family are located here and here and adjacent to an existing duplex. Across the alley we have single family and multi-family development. This entire area is designated multi-family on the Land Use Map due to the close proximity to Boise State University as well as the close proximity to Broadway Avenue. As Boise State University expands, there will be an increased need for higher density uses in this area and as the traffic on Broadway increases it is not likely that this area will remain primarily single story, single family dwellings. Staff expects to see further redevelopment of this area. The R-1M standards will allow for more dynamic addition to this neighborhood than the typical R-2 zone, multi-family development which generally would be a 4-plex for a site this size. The R-M zone will require front facades of individual units to face Longmont Avenue, alley loaded garages located behind the homes and allow the developer to build attached or detached single family dwellings while maintaining the desired density. This design promotes community life and enhances neighborhood safety and is more compatible with the other single family homes and duplexes in the neighborhood than a 4-plex would be. The addition of the Design Review overlay will help to insure that this site develops with a high quality, well designed project. The R-1MD zone is consistent and compatible with the surrounding R-2 zoning and uses. Staff recommends the Commission forward CAR06-00007 to the Council with a recommendation to approve.

Brad Parsons (Applicant/2929 Matthew/Boise) – Apparently there are 5 lots so I could clear the whole property and do 5 row houses. I went to a lot of the emergency ordinance meetings. I particularly heard the Mayor say, in reference to one of David Hale’s projects that he likes the attached units more so than the detached row houses. I tend to agree. Another option would be to keep the existing duplex and add two more duplexes. I think that the modular single family houses would fit in better and be a better addition to the neighborhood. One concern that has been voiced as far as the Southeast Neighborhood Association is obviously there is single family houses in the neighborhood so bulk is the biggest concern. I haven’t submitted plans so Fred Fritchman’s envisioning 35 ft. tall with 10 ft. setbacks and that’s not my intent. I try to match the front setbacks as close as possible. They are varying from about 13 to 25 ft. on the east side of the street. I’ve also toyed with outside units being perhaps 1 ½ stories versus a full 2-stories like on 13th Street. Basically when everybody thinks R-1M, they always think 13th or Leadville because to my knowledge those are the only two that have been completed. They are a full dominating 2-stories and I think you could develop it with a more North End approach where you build houses that are 1 ½ stories and pay a little more attention to height and how it shadows over the neighbors, etc. That’s why I think the Design Review overlay is a good thing.

Commissioner Fadness – For the record we’ve received a letter from George Wade in support of the proposal, and an e-mail from John & Geraldine Yasvac in opposition to the proposal.

John Yasvac (1404 Longmont/Boise/83706) – My property is the most critical property involved in this proposal. I live right next door to this situation. We’ve been concerned about these skinny houses going into our neighborhood. We’re also concerned about townhouses that rise above to restrict and infringe on our privacy. For 46 or 47 years we’ve been residents there. We
have anchored 4 really good solid residences around us. All the rest of us are transients and we fought the transient situation, rattles and the like and the accompanying noises that accompany those kinds of individuals. We’ve lived through it all. I’ve lived through the early day when a fellow drove up to me with and opened up the truck on his car when I was mowing the lawn. He gave me a piece of meat to eat and he says he was going to build a restaurant right over here and here’s what I’m going to serve. So the church that he was pointing to became a restaurant. You’re just degenerating our neighborhood into everything but what it is and what it originally was. Now the encroachment of what you’re saying of Boise State coming in. We have Rossi Street as a demarcation point for Boise State and its needs. Now you are already in 3 or 4 blocks more into the east area. We’re opposed to this. Were we to sell our property, what value would our property be worth? More or less? Will we get tenants next door that are reasonable tenants? You don’t know that, yet you’re giving all the promises that this is going to fit in very, very nicely. I’m definitely in opposition to it. The rest of our folks don’t care and the reason they don’t care is because they are not next door. I am. I’m the only one concerned. My college professor next door to me could give a damn less. He lives on a corner lot and he’s shielded from all of this. The Mummerts on the other corner, they don’t care and the only thing Jody said to me the other day was she didn’t care what they did to the area as long as they give her a place to live in where she’s within walking distance of Boise State so she can go support the Bronco teams. That’s all she wanted. They suffer more than I do because they are on the corner and parking is a devastating situation with them. Not so with me. I’m not concerned about parking here.

Doug Heumann (1420 S. Longmont/Boise/83706) – I’m the neighbor on the other side of the property bordering the duplex that won’t be torn down. I’m mainly concerned about parking. The setback doesn’t allow enough room for a car to park in the alleyway. There’s a pad attached to the garage, but it’s pretty hard, since he doesn’t have any buildings formulated yet, just the rezoning, but when we had the meeting with him about 3 weeks ago I indicated if there would be enough parking behind the single car garage from the alley to allow at least 2 cars there. But it doesn’t look like the setbacks are going to be good enough. I’m worried that with the investment climate as it is, that they will be renting these out to college students. Brad’s not sure if he’s going to have a 2 or 3-bedroom, but you can be assured that there could be 2 or 3 cars but parking possibly just for 2 and maybe not even that. A single car garage, a lot of people use that for storage. College students won’t even be able to park in there. I’m worried about proper parking. He’s got a duplex that he can tear down and actually turn into parking spaces if he wants and provide more parking, the duplex adjacent to my property. He has that option to provide more parking. Just like with any business or commercial property, I think it’s good to plan for parking, not just street parking. Boise State is just going to get larger. There’s going to be more traffic. Football games are going to get larger, the stadium is going get larger and we’re relying too much on just street parking to get the overflow. My main concern is the parking, the egress through the alley and people going across my property and parking on the street to this new development.
Frank Nicholson (1231 Leadville/Boise/83706) – My issue is the bigger issue of compatibility. This has really been a struggle. I was on the Infill Committee for the Substandard Lots. What we kind of created, we’ve got those down to 25 ft. Now we come in at an R-1M and allow 35 ft. What’s happening is we’ve kind of created another loop hole for the contractors to be able to do what they want. You’ll recall that you did pass those guidelines last month. I would like to see that a moratorium be set on the R-1M standards for these particular lots because of the same problem that we’re going to create with that. Another thing that happens is there are exceptions that are made and what happens is that becomes a president that the contractors use to say if it was done there, they should be able to do it here also. I live on Leadville which is about 2 blocks down and the same process is going to be happening on the property across the street. I’m concerned about this property because then if that’s okay, then you’re going to okay it across the street from me. Another big issue is there was a presentation from a representative from the Ada County Highway District regarding the Federal Americans with Disabilities Act on pedestrian and bicycle transition plan. What I see with these 2-story infill houses, what I see happening is the disabled and the elderly are going to be able to walk past the houses but they won’t be able to live there because most of the houses have upstairs bedrooms. You need to consider that. That’s one of the wonderful things about the neighborhood. In that neighborhood there are several houses with elderly people. I walk past a home with an elderly man in a bed at a window and the house is low enough that they can get a ramp up to it and he’s able to pass away there. What’s going to happen is if we get all this infill, then we’re not going to be able to have for the elderly. They won’t be able to access downtown this way. Another thing that really bothers me is there’s no concrete plans for this project. We can make promises but when it comes down to it, it might not happen, whatever he wants to do. I will submit written comments from Barbara Robinson and pictures to you.

Commissioner Fadness – For the record I’ve received a written statement from Barbara Robinson as well as 5 sets of pictures.

Ms. Brosious – There are parking requirements in the R-1M zone and the parking standards are not going to go down based on this rezone.

Commissioner Wilson – On the Substandard Lot Ordinance and how it relates to both the R-1M and R-2 zones, if the zoning were to remain as it is, are substandard lots available that they could build on and then that ordinance would apply? How would it all fit together?

Ms. Brosious – Right now the property contains 5 original substandard lots. Under this proposal, 3.5 or 4 of those would be used for the R-1M and the rest would remain R-2 for the duplex. If they were to demo everything on the site and build five skinny detached homes with just the zoning that’s there, then the Substandard Lot Ordinance would apply. When you rezone it to the R-1M, they are not considered substandard lots and that ordinance would not apply. Instead you would utilize the R-1M standards. That’s one of the reasons why we’ve added the Design Review overlay so that we have review of the affect on the neighboring properties, window
placements, etc. With it being R-2, they could come in and apply for a 4-plex on the property in its entirety and in that situation the Substandard Lot Ordinance would not apply.

Brad Parsons (Applicant) – My intent is to build single family houses occupied by single families. The market being what it is, will they be rentals, will they not? I can’t tell you that. They might be. I will tell you that the current house and the duplex are nothing to really be desired. I acquired them and their tenants. About 2 weeks after I acquired them I got a call from the officer responsible for drug activity in Southeast Boise who said to kick them out or the police would kick down the door. As far as the neighborhood is now, I don’t live there. As far as drug activity, I don’t know. This is just what I’ve been told. I think this would be an improvement on the neighborhood and as far as the parking concerns go, I don’t think the R-1M is any worse as 2 duplexes or a 4-plex. As it is now where they are parking in the front and off the alley.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-7. COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – Based on the testimony from staff, I don’t see the R-1M zone as loophole to the Substandard Lot Ordinance in this case because what he is really trying to do is offer a better product than what you would have under the existing R-2 because under the existing R-2 zone he could come in with something quite different than what any of us would want. He could come in with a 4-plex or all different kinds of things. Right now under the R-2 zone there is no Design Review on it. I think it’s important to note and I’d like to MAKE IT A PART OF MY MOTION THAT THIS IS A REZONE TO AN R-1MD, THAT IT BE IN A DESIGN REVIEW OVERLAY DISTRICT. I think that the design process will give the neighbors an opportunity to work with the developer on issues like parking, setbacks and all of the other stuff that needs to happen.

Commissioner Cooper – I concur. I really want to say that actually applying this standard is increasing the control that we’ll have over this development. As the zoning is now with R-2, they could come in with a 4-plex and there would be no control and since we would have nothing to review, we couldn’t comment on that situation. This is really an increase in control of the property.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CUP06-00007/Marc Archambaugh
Location: 9320 W. Franklin
CONSTRUCT A 20,196 SQ. FT. OFFICE BUILDING IN AN M-1D ZONE.

Cody Riddle presented the staff report with a recommendation of denial.
Bruce Poe (Applicant’s Architect/519 W. Front St./Boise) – Submitted photos of other buildings in the vicinity and adjacent. The area is in transition and offices are encroaching in the zone. Doesn’t see any future for an industrial being located near Franklin. Office use would meet the City’s Comp Plan findings and goals. Property should be allowed to be developed as office.

COMMISSIONER WILSON MOVED TO DENY CUP06-7. COMMISSIONER ELLSWORTH SECONDED.

COMMISSIONERS IN FAVOR OF MOTION TO DENY: COOPER, WILSON & FADNESS. COMMISSIONERS AGAINST MOTION: MCLEAN & ELLSWORTH.

MOTION TO DENY CARRIED 3-2.

SUB05-00115/Fairview Point Subdivision
Location: On the west side of N. Edelweiss between W. Ginger Creek Dr. and W. Goldenrod Ave.
SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Scott Spjute presented the staff report with a recommendation of approval.

Winny Kirkpatrick (Applicant/Landmark Engineering & Planning/104 9th Ave. South/Ste. C/Nampa, Id.) – Requested approval. In reaction to neighbor concerns, have reduced the subdivision to 10 lots. Request meets all code requirements for the R-1C zone.

Gretchen Rauer (4062 N. Chatterton/Boise/83713) – On January 24th, the Commission asked the applicant to change the subdivision and gave 4 directives. On February 13th hearing only 1 directive had been met with the redesign. The P&Z minutes clearly state that the Commission expected all 4 directives to be met. One specific directive was that Lot #6 be 1-story. The applicant blatantly disregarded the Feb. 13th directives and yet the Commission still passed the application. The 4 homes surrounding Lot #6 are single story. Home built on Lot #6 should be required to be only 1-story as well.

Jill Fiderlick (4096 N. Chatterton/Boise/83713) – Read the P&Z Minutes of January 23rd regarding the motion on this application. Felt the application was passed in February because there were no minutes available from January 23rd’s hearing which would have shown what the Commission had required and that the applicant did not meet those requirements. Don’t want people peering into the back yards.

Commissioner Wilson clarified that even though on January 23rd the Commission asked for a development agreement, that’s not what came back. The applicant came back with a rezone with a development agreement that restricted the subdivision to 10 buildable lots and that is what the Commission accepted.
COMMISSIONER ELLSWORTH MOVED TO RECOMMEND APPROVAL OF SUB05-00115 WITH A COMMENT TO THE CITY COUNCIL THAT THE COMMISSION IS RECOMMENDING THAT ADDED TO THE DEVELOPMENT AGREEMENT THAT HOUSES ON THE WESTERN PARCELS BE LIMITED TO 1-STORY.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.


Planning & Zoning Commission Minutes of February 6, 2006 – COMMISSIONER MCLEAN MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
March 13, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Doug Cooper, Andy Brunelle, Amber Van Ocker & Lauren McLean.

Staff Members Present
Karen Gallagher, Cody Riddle, Susan Riggs, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CAR06-00010/Capitol City Development Corporation – COMMISSIONER VAN OCKER MOVED TO DEFER TO JUNE 12, 2006. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00008/Masco, Inc.
Location: 4450 S. Curtis Road
CONSTRUCT A GRAVEL MINING & CONCRETE PLANT ON 17.7 ACRES IN AN M-1D ZONE.

SUB06-00005/Anthem Subdivision
Location: On the north side of Ustick Rd. west of Cloverdale
63-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION

SUB06-00009/Salud Condominium
Location: On N. 9th St. north of Fort St.
MULT-FAMILY RESIDENTIAL CONDOMINIUM SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSION COOPER MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITION OF APPROVAL AS STATED IN THE STAFF REPORTS WITH CONDITION #37 BEING DELETED FOR CUP06-00008.
COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00008/KAB Properties, LLC.
Location: 709 N. Cole Road
REZONE 1.64 ACRES FROM L-OD TO C-1D/DA.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF CAR06-00008. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Van Ocker – This proposed rezone is supported by our Comp Plan. It’s not going to negatively impact any transportation or public facilities.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CAR06-00009/Gary Schweiger & Sageland Homes, LLC.
Location: 2025 S. Stonyfield St.
REZONE 1.08 ACRES FROM A-1 TO R-1B.

CAR06-00009/Gary Scheiger & Sageland Homes, LLC.
Location: 2025 S. Stonyfield St.
REQUEST A PUD OF 1.08 ACRES AND 5 RESIDENTIAL UNITS IN A PROPOSED R-1B ZONE WITH VARIANCES FROM BUILDING SETBACKS AND PUD AMENITIES.

CUP06-00011 & CVA06-00002/Gary Scheiger & Sageland Homes, LLC.
Location: 2025 S. Stonyfield St.
REQUEST A PUD OF 1.08 ACRES AND 5 RESIDENTIAL UNITS IN A PROPOSED R-1B ZONE WITH VARIANCES FROM BUILDING SETBACKS AND PUD AMENITIES.

SUB06-00010/Stonyfield Farm Subdivision #2
Location: On the west side of S. Five Mile south of Overland
5-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-00009. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Wilson – This rezone is just an extension of a rezone that we’ve already completed for an earlier phase of this development. I think it’s appropriate and in keeping with the surrounding uses.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-00011 AND CVA06-00002. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.
COMMISSIONER WILSON MOVED TO APPROVE SUB06-00010. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CUP05-00161/Mesa Falls
Location: 210 N. Maple Grove Road
CONSTRUCT A 14,375 SQ. FT. OFFICE BUILDING IN AN M-1D ZONE.

Cody Riddle presented the staff report with a recommendation of approval.

Ed Daniels (Applicant’s Architect/2785 Bogus Basin Rd./Boise) – Concurred with the staff report.

COMMISSIONER WILSON MOVED TO DENY CUP05-00161. COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Wilson – One of the things that the Comprehensive Plan is directing us to do is to protect our industrial uses wherever we can. In my time on the Commission I have seen several requests from people who have a commercial zoning use or some other zoning uses that don’t allow any manufacturing trying to upgrade to a manufacturing level, trying to get some of that light manufacturing area within the city. It is something that is at a premium whereas office uses is something that we can put in many more locations as it’s compatible with residential development. Last week we had an application where we questioned whether a 1-acre site could provide a viable area for light industrial and although it was a close call, we decided that it could because it was its own parcel and it had good road access. But I’m concerned with that the way this is set up with the office use up front, there’s not going to be the right kind of access for that parcel in the back. Essentially the condition is saying that if you’re not able to put industrial back there then you come before the Commission again to try and get rid of that condition later on. If that happens, that puts the Commissioners in a tough spot because you’re already got an office building there. I think that too few areas are available for this kind of use in the City and that we need to follow the Comprehensive Plan and maintain it for industrial use. We did approve some office use in an industrial area a couple of months ago but it was an office use that was tied to the industrial use on the site. I think if we were seeing that kind of application where the industrial use and the office use were integrated, then I would support it but for this I just don’t think that we should grant the conditional use approval.

Commissioner Van Ocker – I have to disagree. I think there’s multiple ways that you could design that back portion where a light industrial use could be utilized. I think staff has put into the conditions of approval some avenues by which the owners of this property and the applicant would have to come back before this board to get approval for that. I do understand that it does limit the type of uses, but I think a piece of property that’s over an acre, if it’s a decent design, you could do a light industrial development there. I think the application in other ways is
Boise City Planning & Zoning Commission
Minutes of
March 13, 2006
Page 4

Commissioner Ellsworth – I’m not going to support the motion because I think that this is one area that’s in transition and I’ve asked the City Staff to go back and look at this area. I think there are areas within the City that need another look at land use and a change in land use. I think I could support the application with the stipulation that the application provides for industrial use on the back half of this property. It’s not a perfect solution I would like to see. I do agree with the comments that were made that we need to protect our M-1 zoning within the City so that we can have a mixed use environment within the city. If you move all the industrial out Canyon County and places that are far out, then people will have to get in their cars and travel to their light industrial use office. That’s not what we want. Boise City has acquired land in the last few years out by the Airport just for M-1. These are critical areas. I’m kind of torn about this whole area.

Commissioner Cooper – This Commission has talked about this subject on three different items in the very recent past and they are all very closely connected. For me the different here is that this application includes the future industrial parcel whereas the other ones were only office and so by writing that into the conditions of approval I can support having this application go through.

COMMISSIONERS IN FAVOR OF MOTION TO DENY: WILSON & BRUNELLE
COMMISSIONERS AGAINST MOTION: ELLSWORTH, COOPER, VAN OCKER & MCLEAN.

MOTION DENIED 4-2.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP05-00161 ALONG WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONS OF LAW.

COMMISSIONER COOPER SECONDED THE MOTION.

COMMISSIONERS IN FAVOR OF MOTION TO APPROVE: ELLSWORTH, COOPER, VAN OCKER & MCLEAN.
COMMISSIONERS AGAINST MOTION: WILSON & BRUNELLE

MOTION FOR APPROVAL CARRIED 4-2.

CUP05-00152 & CVA05-00042/Quasar Development
Location: 916 E. Park Blvd.
CONSTRUCT A CONDOMINUM PROJECT OF 90 RESIDENTIAL UNITS WITH RETAIL/COMMERCIAL ON THE 1ST FLOR ON 1.74 ACRES IN A C-3D ZONE WITH A REQUEST
FOR A HEIGHT EXCEPTION TO 147 FT., AN INCREASE TO THE FLOOR AREA RATIO, A 20% INFILL BONUS DENSITY AND SETBACK VARIANCES ALONG FRONT STREET AND PARK BLVD.

Susan Riggs – This was last heard on January 23, 2006 and you requested the applicant to meet with the neighborhood, go over the plan and see if they could come up with some kind of compromise. The applicant met with the representative from the East End Neighborhood Association and Strawberry Square Townhome Association. The applicant said the purpose of the meeting was to go over the neighbors’ comments and concerns in greater detail and to provide general background on how the concept of the project was actually created, what their goals were and what they are looking forward to. The applicant also attended a meeting held February 22nd at the Boise City Public Library where there was a large gathering of people. This was sponsored by the Strawberry Square Subdivision. It included quite a few people, from my understanding, that lived outside the area of impact being Strawberry Square and the apartments and the immediate adjacent area. The applicant was at that meeting but chose not to speak. On February 24th here at City Hall we invited members from the Strawberry Square Subdivision as well as the East End Neighborhood Association and staff, our Planning Director and Scott Spjute was also present to go over the revisions of what they’ve put together. Strawberry Square really doesn’t want to see a building higher than 45 ft. so there was only so much room for negotiation. They are very unhappy with the project and would like the Commission to deny the project this evening. The revisions that the applicant has made are outlined on page 2 of your memorandum. The revisions that were made to this application are: the horizontal scale of the tower, the footprint, which reduces the visual mass of the project, was reduced; the height of the building was lowered by 28 ft. from 147 ft. to 119 ft. I believe the Washington Group Building is 110 ft., so it does bring the building very close to the Washington Street Plaza Building. The setback along Park Avenue, as requested by the Commission, was increased from a 5 ft. setback to a 10 ft. setback and will incorporate additional landscaping. The setback visually from the building to the curb will be 20 ft. although the setback to the property line is actually only 10 ft. Landscaping and street design elements along Front Street and Park Blvd. have been added. Approximately 10,000 sq. ft. of additional commercial and retail space has been added to the ground floor. The town homes on the east end of the project have been eliminated; however the density still remains at 90 units. The majority of the raised terrace over the ground level parking has been eliminated. They still do have a terraced area out there, but it does not extend over the entire development as it did in the past. This allowed the applicant to provide more on-grade landscaping. They’ve increased the number of bike racks because they envision people biking to the downtown, the river, to 25 from 15. They have been working with the Valley Regional Transit Service in trying to find an appropriate bus stop location. It will be up to Valley Regional to decide where that bus stop is most needed but to date we don’t have any resolution on that. Staff believes that the real point of contention with this project is not the setbacks, although there is concern with the setbacks, but with the height limitation. From a planning perspective staff has felt that this height exception was appropriate in this particular area; however it is up to the Commission. You may grant a height exception of any height that you wish be it 45, 55, 65 ft. or whatever you feel is appropriate for this site. Late Tuesday afternoon
Strawberry Town homes submitted a large packet which you have received. It contains 5 pages of an overview of their feelings towards this project. It also includes approximately 550 signatures from the East End Neighborhood Association. Prior to the meeting tonight I submitted to you 16 additional e-mails that did not get attached to your packet because they arrived after the packet went to print. With the exception of 3 e-mails, all the other e-mails were in opposition, but 3 people voiced their support for the project. The applicant submitted a 3-page summary which discusses the meetings that were held in goes into his progress and work on the project since you last met. The parking still remains interior to the site. There will be no parking visible to the street and all the parking for the residents remains below grade.

David Waldron (Applicant/80 W. Cottonwood Cr./Eagle, ID.) – As staff pointed out we have reduced the height of the residential component by over 20% bringing it very close to the height of the Washington Plaza Building next door. In addition, the footprint of this building has been reduced and moved an additional 5 ft. from Park Blvd. We think the aerial photo puts this project in perspective. You can see that about 80% of the site is showing development well under the 45 ft. with most of which is below 15 ft. We have placed the condominium building as far away from other adjacent facilities as possible. We are offset from the building to the west to avoid blocking their views of the foothills and we are 228 ft. from the southwest corner of the closest residential project. As we mentioned during our first hearing we had considered other uses for this property including mid-rise structures. These designs would have extended over most of the property and would have required above-ground parking. We made the design decision early on to place the parking for the residential units underground and arranged the master site design to place the surface parking out of view from Park Blvd. and Front Street. This is a very unique site. It is bordered on the southeast and north by busy feeder roads and on the west by a series of massive office buildings. We believe this project will be a very positive addition to the city. It is evident that Boise is in a growth pattern that will continue for many years to come. To keep the urban area vigorous and economically healthy, it is critical that the downtown residential living and small neighborhood friendly commercial developments be encouraged. Some vertical building designs with proper consideration for how they are positioned will help avoid horizontal sprawl and the resulting problems of traffic congestion and infrastructure cost as seen in many other cities. We feel that the use for this site and the scale of the project is appropriate at this location. We feel that the architecture that we’ve proposed creates a successful counterpoint to the more massive buildings along Park Blvd. and establishes a fitting transition to the surrounding neighborhoods and the existing office and commercial buildings to the east along Parkcenter. By granting approval for this concept, it will allow an opportunity to provide the City of Boise with a significant urban design component at the eastern gateway of the downtown core which will add vitality and diversity to this area.

Commissioner Cooper – You reduced the height of the design by 28 ft. as well as the footprint, but you still have the same number of units.

Mr. Waldron – That’s correct. We have actually reduced the size of the units.
Dan Walters (1006 E. Strawberry Ln./Boise/83712) – I’m a registered professional engineer in 3 states. I’ve worked on many planning design and construction projects. I may be the supposed crackpot that Mr. Waldron misunderstood if it’s for us that is concerned that this project would block view of the Capitol from where I live. That’s a reference to his 2/24/06 letter to the Commission about a comment made at the Library meeting. If that was indeed a reference to my comments that night, I can’t say I think much of his listening skills. I did express disgust of what’s been allowed to happen to the views of the Capitol from along Capitol Blvd. I also indicated I was not thrilled to have more blinking lights on tall buildings near me since I already have the beacon from the landing pad at St. Luke’s shining in my north window. Buildings and roads, no matter how well individually designed, do not make an attractive, livable nor desirable city. Planning and the will to stick with the plans are required. It seems ironic to me that the developer hopes to use to sell the units, is the views from it from that tower while it blocks or detracts from the views of others. We as a city have a history of failing to preserve view sheds and access to open sky and sunlight. Anybody else object to what we let happen to the view shed along Capitol Blvd., despite assurances to ourselves that we would not allow it to get so bad, but we did. If we want and need another tower let’s put it with the other really tall buildings in the heart of downtown, perhaps the hole left by Mr. Peterson. I think there was a lack of sufficient interest to adequately secure the funding, but come to think of it the views weren’t nearly as nice from that tower. We as a city have a history of working too hard to accommodate developers. The developers profit far more from this than the city as a whole and I would appreciate if we would take this opportunity to break that pattern. Developers routinely ask for the world, play the compromise game and paint the opposition as unreasonable if they don’t give up what the developer needs to make the project economically feasible. Let’s acknowledge this tactic for what it is. If staying within the zoning makes this project economically unfeasible, so be it. Development is gamble and speculation. At least we can keep the game more or less fair. If the P&Z wants to allow this project to proceed, perhaps working openly to change the zoning would be more appropriate. I really take issue with the notion of this as enhancing that area or it being something like the new urban design models that are touted. What’s being proposed is not going to help create or extend a walk able mixed use neighborhood. What’s being proposed is a commercial development with residences using the mixed use concept to make it more palatable. Don’t kid yourselves. This development is not going to walked or biked to much. Look at the multi lane roads surrounding the islands of MK or Washington Group. It’s very unpleasant to walk or bike there. This development has little to do with the best mixed use neighborhood conceptual models that urban designers are now touting. Most of those are walk able, have sidewalks, have on-street parking, near streets with low traffic speeds and are comprised of mixtures of 2 to 4 story buildings.

Jim Adams (1012 E. Strawberry Ln./Boise/83712) – My concern lies in two facts. If you are coming from the south to St. Luke’s on the emergency helicopter this building is dead center right in the flight path. Whether it’s 10 ft., 5 ft. or 1 ft. higher, it’s still just as hard when you hit it. Has the Federal Aviation Authority been brought into this discussion and consideration by Quasar in building this facility? Has St. Luke’s Hospital been brought into the consideration that I feel quite necessary as their choppers come in from the south? Many times I hear them going
over my house everyday. It’s alright in the daytime, but at night or in inclement weather you’ve got an extremely tall hazard dead center. Have they brought into their consideration and their feelings in this regard?

Rocky Bogart (2105 Warm Springs Ave./Boise/83712) – A correction to the staff report, the 500 signatures were from Strawberry Square, not EENA. I would like you to just imagine yourself on the south side of this location looking north at this projected development. The building they are proposing, 119 ft. tall and next to it to the left in the MK area is 110 ft. so we have a building that’s about a story taller than the large buildings. This zone is called a transition. In fact the developer used the word transition to the neighborhood. The building, as proposed, does not transition into the neighborhood at 119 ft. I believe there is room to negotiate a transitional building and design into the neighborhood and into this location. I believe you will probably hear testimony to that fact tonight. However, the present modified design does not come close to a transitional building of any sort. I think it meets the developer’s desires for high density infill and I agree with having high density mixed use infill in this location. However, I feel that in this case using the exception rule is inappropriate. If the developer needs this design to go on this site to meet his financial objectives, then I believe there is in the code the ability to do so and it’s a variance. I think the staff should take this back, work with the developer on a variance and meet the criteria of a variance which then the developer would then be required to provide why it’s a hardship not to develop with this design. If it’s a valid hardship it would answer questions that the neighborhood is concerned with.

Deanna Smith (Representing the East End Neighborhood Assoc./1208 E. Jefferson St./Boise/83712) – The East End Neighborhood Association wishes it could before you this evening in full support of this project. However our concerns still have not been addressed. We are still very much in support of a high density mixed use project on this site and would very much enjoy the opportunity to continue to work with Quasar on such a project. Before I address our two primary concerns I would like to clarify some points that are in your report. David Waldron met with our board before the neighborhood meeting he held last October, not following that meeting. At that time he had no specific drawings, plans, any real precise information to present to us so it was a meeting that was based entirely on the concept of the project. We were, at that meeting, quite supportive of the overall concept. He did say the height might be 12 or 13 stories and we did say that might be a problem. We did invite him to meet with us again once he had more specific information. The following week one of our board members did attend his neighborhood meeting at which time he did have some specific site plans that we could look at and address. At that time she did tell him that this was too high along with some other design comments that she made which they have subsequently addressed. She then did report back to the full board and we did concur with her comments. We did not initiate further communication with Mr. Waldron for which I acknowledge regret at the last hearing, however neither did he. At our meeting following your decision to defer to this at your previous hearing, Mr. Waldron again met with the neighborhood, both with EENA and Strawberry Square. Again he had nothing specific for us to look at or to discuss. In lieu of that EENA offered the suggestion that we were willing to go above the 45 ft. but that we needed to see
something significantly less than the 147 and still less than the 119. As Rocky just stated to you, we feel that it is the City’s responsibility to use this area as a transition zone in terms of good planning. I line this out for you primarily because the process that we feel this project has gone through has frankly been fairly lacking. There really has not been an opportunity for the developer and the East End, in our opinion and in our experience in working with some other developers, to really discuss this project on any detail. By the time we reviewed the plans before you tonight, the meeting that occurred on the 28th, they were already submitted so it was no longer a point of discussion at that time. We feel that frankly the staff could have taken a stronger role in bringing the two entities together and facilitating some discussion between both the neighborhood and the developer and I have let the staff know that those are my feelings. We believe the decision to allow height to occur as an exception rather than a variance, thus not requiring the developer to show hardship, is one of the primary reasons there has been so little discussion on the height. EENA disagrees with the staff’s decision that height, as a part of a PUD, is allowable as an exception and we request the Commission to deny this exception and require a variance be applied for. We understand from staff that the developer is claiming that lowering the building any further makes the project impossible, but without processing this as a variance there is no way to actually know this. Your staff has told me they don’t in fact know that, they’ve just been told that. One rational for the height exception given by staff is its compatibility with the other tall building next to it. Ignoring the fact that aside from the other taller buildings on Broadway at the end of the Washington Group Complex, nothing in this vicinity is much, of at all, over 60 ft. making this the tallest building for a very large area. Another reason for allowing this extreme exception, which it still is at 119 ft., it’s over 2 ½ times the allowed height, is that this is close enough to the downtown core and in fact may become part of the downtown core some day. I have asked staff if there are plans to expand the downtown core this far and they have stated there are not. This location is a half a mile from Broadway, the current edge of CCDC’s downtown planning area and more than a mile from the actual downtown core. I actually clocked it today. At best it seems premature to be guessing this may become part of the downtown core and at worst it is poor planning. EENA would hope to be involved with any planning effort that decided to significantly redevelop this part of our neighborhood. We believe that good planning will support one of Boise’s thriving neighborhoods, the East End, and thus treat this location appropriately as a transition zone. Any height given to this location could be used as justification for significant height across the street. If you acknowledge that this is a transition from commercial into neighborhood, by stepping the down then it becomes easier to not allow additional height on the piece of property immediately south of Strawberry Square, a piece of property with the exact same zoning as this one. As for this being a gateway to the downtown, I know the city won’t put a building this tall along Capitol or Vista at the top of the hill. There is no justification for this as a reason at all. It seems to us that the only compelling reason we’ve heard thus far is that the developer is saying that they cannot do this project with any less type and they know the city wants this type of project more than an office building. We suggest a variance to clarify the situation.

Commissioner Brunelle – You made some comments about the potential for identifying and an acceptable height that would be higher than the 45 ft. limit for this zone. Do you have any ideas
on how an objective approach could be taken to do that as far as some methodology that could be agreed upon by parties and then apply that methodology to this site?

Ms. Smith – I don’t. I would hope that your planning staff might know that. That seems to be within their purview or within their bank of knowledge. I know that we are open to discussing that. We actually threw out some vague numbers in terms of just the general notion of what would make a transition statement and it seemed to us that somewhere halfway between the Washington Group Building that’s at 110 and the 45, somewhere in there would make a logical transition statement.

Commissioner Brunelle – It would be nice if we could find something that would work. My other interest in this is I’m pretty convinced that this will not be the last time we will be discussing a project like this somewhere in this city and it would seem that an objective methodology that could be developed that could then be used for other cases down the road would be in all of our interests rather than, in my limited time here so far I have not seen that. What I see in dealing with these height requests is basically something that looks more ad hoc than something that’s standardized.

Ms. Smith – Well I’d concur with you on that and I would really support, EENA would love to see the city create a clearer process. I’m sure you could look around the country and find other entities that have done that. I think one of the challenges that you have here is this is a concept. Through this if you give them this height, you’re giving them that development right and you don’t really have a final design and you haven’t fully addressed things. I think that’s another little juggernaut in there. Do you really want to allow this much of a development right at a concept level?

Burrell Lirgg (978 Strawberry Ln./Boise/83712) – Some of the answers that they gave on their application like about the airport influence on the air, I believe Jim mentioned that about St. Luke’s having being in the flight path. It says no. Has a traffic impact study been done on street layout? I believe when I looked at some of the pictures it looked to me like some of the things they said about the width of that corridor, some of that land that they think they can fudge on belongs to ACHD. Someday that will probably be another lane on that corridor. If they get permission to not have it as far as it’s supposed to be, then they’ve infringed on that. I moved to Strawberry Square twice. I lived on 475 for a number of years. One of the things it says here about the floodplain and I remember one of the things that I was really impressed with, I had to get insurance for flood when I moved there because on the foothills up there above the V.A. Hospital there’s a creek coming down there and it was a real torrent. Water came and went down the street, down through the other streets through Warm Springs and all that was a river. I don’t know how many years ago it was but so several years ago when I thought it was going to be high I took the extra insurance out for flood. I haven’t for several years. I think the variance that they want to do is extremely too high yet. I don’t think we need the whole 100% that we wish at Strawberry. But I think if they would not have purchased this property knowing what it
was supposed to be built at, to invest that much money so their hardship is bull. That’s my opinion.

Steven Lanzet (975 Strawberry Ln./Boise/83712) – I’ve lived in the East End for over 20 years. A number of us at Strawberry Lane have put together a statement so the next 4 speakers, we are going to combine our comments. What we are going to present to you is what the neighborhood his, in our view, what the neighborhood is not, what we agree on and what we do not agree on, why we don’t agree, alternative designs and approaches, and the threatened alternative, and our specific request and a conclusion. What the neighborhood is – the Quasar Project is proposed for the middle of a vibrant mixed use neighborhood on the periphery of downtown Boise. It is composed of beautiful business campuses, a jewel of a park that is the favorite of family and group activities, the MK Nature Center, well kept homes, town homes and apartments. It is dissected by the Boise River with an active greenbelt path on both sides. The neighborhood has plentiful retail with an easy reach on Broadway and some on Parkcenter Blvd. Many people who live in the area work in the area at the office complexes along Parkcenter and Park Blvd. or in the nearby downtown. The area has little vacant land or buildings. There is a high traffic volume of the recently Parkcenter Bridge and congested flow on Park and Walnut in the morning and in the evening. Parkcenter Blvd. is 3 lanes of 35 mph and often faster traffic that is the biggest disruptive factor in the neighborhood. What the neighborhood is not is a blighted area with vacant lots and decrepit buildings in desperate need of development, any development no matter what the cost. It is not a large area looking for an identity that a new project would bring and it does not have significant undeveloped areas that when developed would be of sufficient size to change the character of the neighborhood. It is not downtown Boise. The Comprehensive Plan shows Downtown Boise’s eastern boundary at Broadway Avenue. Within the downtown C-5 zoning allows tall buildings built to the sidewalk but not within C-3. It is also not the west side of downtown between Main and the river where much of the land is vacant or underutilized. What we agree on – we agree that the land in question should be developed and the owner has a right to develop it within the allowed perimeters. We agree that a mixed use project of office, retail and residences would be nice there, however we are okay with any one of those uses by themselves as long as the project follows the zoning rules. We agree that enhanced public transportation at this location would be nice but we doubt it will be used by the residents of this tower.

Scott Bode (1008 Strawberry/Boise/83712) – We do not agree that the developer should be given a height exception that grossly exceeds the limit of 45 ft. If the project is to be a transition from the Washington Group International Plaza to the residential neighborhood, as the Planning Staff
and the developers say, it needs to step down from the Plaza IV building, not up. In fact it should be no more than half the difference. We believe that the height should be proportioned to the land around the building. The WGI Buildings do not dominate their sites because they are setback from the roadway and have ample land around them. The same is true of Parkcenter Blvd. and most people would agree that Parkcenter Blvd. is appealing and well planned. Of course they do not follow downtown designs, but this is not downtown. We feel strongly that granting exceptions and variances without showing hardship sets a dangerous precedence. On what basis will the Commission deny future requests for height variances and if they do, will expose the City to lawsuits. When asked to cite examples of significant exceptions to the height that have been granted in the last 10 to 15 years, only a few could be named by a Planning & Zoning staffer. The first was the spire at the LDS Temple which is only an architectural embellishment. The others were the Edwards Theater and the two hotels there. This site hardly compares to the Edward’s Theater Complex and those buildings are only about 72 feet in a 45 ft. zone. An exception of over 100% is unprecedented. Even if the potential developer of the site across the street could not cite the precedent, the height alone would change the character of the immediate neighborhood and make a stronger argument that another tower will be compatible with surrounding buildings. We do not agree that a height exception should be granted before an acceptable design is fixed in place. The pretty pictures that the developer is showing to obtain the exception mean nothing. If the exception is granted he can change the building to anything he wants and will not have to come before this Commission or the public again for approval. The decision will be in the hands of another commission that has not been involved in this process and they have a very different vision for the site.

Ray Frachette (983 Strawberry/Boise/83712) – The building as designed overpowers the small site and looks out of place, especially coming from the east. This building is roughly equivalent to the CW Moore Plaza on Front Street which is in the Central Business District. Second, the tower portion is not balanced on this site. A member of the AIA even testified that it was a bad design and it’s not just our laymen’s opinion. Third it sets a bad precedent for the neighborhood’s remaining few lots. Fourth the tower will reflect more noise over the wall on an already noise plagued neighborhood. For Boise, this trashes the planning process. By allowing these variances and exceptions without changing the Comprehensive Plan and zoning, you open the door for total disregard of the planning process. This also raises the potential for lawsuits against the city if future exceptions are denied other developers. Boise continues to grow at a rapid pace. Allowing these exceptions without going through the rezone process would be a tragic outcome as we desperately need to work within a unified planning process. We are not that desperate for infill or density in this neighborhood. Let’s fill in the many spaces downtown where the infrastructure exists to support this type of development. The Comprehensive Plan should be followed by everyone including the P&Z staff. They should have to go through the same public process as everyone else to change the Comp Plan. Otherwise planning in Boise will be seriously diminished. This evening on TV Mayor Bieter was taking Ada County to task for allegedly violating their Comp Plan in approving Avimor. You may be going to court over it.
Janey Knipe (1000 Strawberry Ln./Boise/83712) – While it is not our position or responsibility to offer alternative designs, we feel that this tower is being offered as the only way to achieve the goals of mixed use and density. We have cut the tower into two pieces on each end. They are approximately 5 stories. We contend that it provides the same floor space while not grossly exceeding the height. It provides a visual transition from the larger office building to the west, does not overpower the site and actually looks more balanced. We are proposing to work with the developer to arrive at what works for all parties as long as one of the objectives is not to maximize profits the expensive of all else. The process known as charrette is being used to design the next phases of Harris Ranch so that all parties are at least agreeable with the project if not delighted with all aspects. We are willing to invest the time and effort to make this process work and are proposing that maybe something like that happen with this. You have seen from our efforts so far that we are determined to see this through to an agreeable conclusion. Is an economic viability dependent on a high tower of … residents and unobstructed view and bringing top dollars to the developer? We can only speculate. But certainly the land cost is not the factor. Average lot prices in the valley are over $50,000. If the developer paid the asking price of $20 per square foot, the land cost per unit at the 90 residences would only be about $17,000 while not assigning any value to the commercial space. Other mixed use in downtown residential buildings are moving forward without resorting to more than 4 or 5 floors in most cases. If these are viable then why not this project? Even the project at 13th & Myrtle and 15th and Main are only 5 to 6 stories. Most importantly, these projects are in the downtown area where infill and taller buildings make sense.

John Knipe (1000 Strawberry Ln./Boise/83712) – According to a quote from the Idaho Statesman, the architect on this project stated that if the City turns down this request the site will likely be developed as another blocky office building or a hotel like a Holiday Inn. That’s sounds like a threat that is aimed at the neighborhood and the Commission. It should not be considered in this hearing. But let’s examine the alternatives. The site is too small and too expensive for most hotel uses but a hotel of a proper height will be an acceptable neighbor. An office building of the proper height would also be acceptable. They make good neighbors too. We have several of them. As for someone building an ugly building, they would still have to pass Design Review and ugly buildings are usually not successful, especially in a market with an abundance of vacant offices. What about the retail component that some are so anxious for. First we do not think there is any shortage of small retail shops and restaurants in this area. We would like to see that some of these around the intersection be, but feel the site on the northeast corner is much more viable for retail. It is a larger site at 2.4 acres. It is fronted on 2 sides by 2-lane roads that have much lower traffic on them. It is nearer to the park and easier for pedestrians to reach from the neighborhood. We request that the Commission reject any request for height exception and recommend that Quasar work with the neighbors to develop a design that we can live with. If that is done we’ll support any variance or exception that the design requires. The granting of the height exception puts the cart before the horse and sets a dangerous precedent. At the last meeting you asked us to work with the developer to reach an agreement. We have been willing, since the beginning of this process, to find common ground. We still remain committed to this. We ask that you instruct the developer to take into account the 650
people who have now signed these petitions and come back to the negotiations with a willingness to work through these differences. We truly believe we can find a solution that is best for him and for the residents of this great city.

Commissioner Fadness – For the record I’ve received 6 copies of previous testimony.

Wendy Kirkpatrick (680 Ave. H./Boise/83712) – I’m here as an East End resident who’s in support of this project. I think the past couple of years we’ve seen an extraordinary amount of growth here in the Treasure Valley and the only way to mitigate and minimize the environmental impacts of this growth is to promote high density development. With this project with 92 residential units, if you were to plat this out as a standard residential subdivision, it would probably use up 25 acres if you’re doing 6,000 sq. ft. standard suburban residential lots. Rather than seeing 25 acres of farmland used up, you’re staying in a compact area. People are accessible to downtown amenities. My day job is a planner and if I were against this project I’d go through the code and figure out ways to get this project denied, but I’m really in support of the project and have no financial connection to the project but I think it’s a quality project. I think the best way for us to preserve the Treasure Valley is to promote density and residential projects.

Shannon Page (913 E. Jefferson/Boise/83712) – I appreciate the fact that the East End Neighborhood Association and the Strawberry Square Association have spent diligent time very carefully studying these projects and giving you good testimony in not in favor of the project and working to bring the height down and make it a reasonable complex. I strongly urge you to deny the height exception for the Quasar Development. I object to both the density and the height of the complex. I ask that you not allow the structure to be higher than the 45 ft. height limit. A 4-story structure is most appropriate for the area, protects the nature of surrounding residential neighborhoods and preserves views of the Boise foothills. The developer’s requested height exception will create a complex of towers over our neighborhood and is incongruent with surrounding structures. While I recognize that sprawl throughout the Treasure Valley need to be contained and that infill is a solution, please don’t do it at the expense of our city’s neighborhoods. Overly dense and unnecessarily tall structures benefit developers and the high income residents who can afford the penthouse view, but not the average citizens of Boise. A vision for Boise should include keeping towering structures such as this within our downtown core where past decisions and decades before us have already allowed bank buildings and hotels to obscure the once beautiful view down Capitol Blvd. from the Depot to the Capitol Building that we were promised would always be protected. The City’s vision should also include preserving the Boise foothills as a beautiful backdrop to the city and not obscuring them from the average citizen’s view any more than absolutely necessary and providing strategically planned open areas such as squares and small parks during any infill to preserve and enhance the beauty and livability of the city for all. I know that Quasar is capable of designing and building a structure that can enhance and not undermine the nature of this neighborhood. I strongly hope you hold them to that and have them work with our neighborhood associations and any of us impacted by this structure to be sure that we have something we can be proud of.
Janeen Damer (1123 E. Kimberley Ln./Boise/83712) – I am aware that everyone in the Kimberley One Town Home Association signed the petition for fulfilling the 45 ft. height requirement. We live on the other side. Strawberry Lane, they’ve a big deal of putting it in a place ideal for Strawberry Lane. We’re on the other side. It will block our view of the foothills and towards the downtown area. Every day I walk my dog along the river and it will block the river view towards the foothills. I’m concerned about the traffic impact. I will have to drive with all those people going into that area to get to my home as well as the boulevard type requirements down Parkcenter. That boulevard type setback will then be disturbed, the building as it’s been stated, will have a much greater impact in its height because it’s not going to be setback like all the other buildings down that road. For all these reasons I ask you to ask them to go back and come up with a solution that’s more agreeable to us and some of the surrounding areas including the Kimberley One people.

Commissioner Wilson – There are still some variances being requested for the setbacks. What is the hardship or exceptional circumstances that have been cited as associated with those variances?

Ms. Riggs – The unique circumstance was the fact that the setback requirement along Parkcenter Blvd. is 20 ft. The applicant was requesting a 10 ft. setback along that street and a 5 ft. setback along Park Avenue and the fact that the perceived distance from the curb to the building along Parkcenter Blvd. is actually 28 ft. Although the property line building is setback 10 ft. from the actual property line it’s setback 28 ft. from the curb. All the improvements are in from ACHD. They are not requiring any more improvements. Curb, gutter and sidewalk are all in. They are going to achieve the boulevard effect along Parkcenter Blvd. with a double row of trees which they’ve shown on their site plan. They moved the building an additional 5 ft. to the north on Park Avenue. Although the setback from the building to the property line is 10 ft. along Park Avenue, the perceived distance visually from the back of curb is 20 ft. The New Urbanism design with the parking located behind the building, the building’s fronting the street, doors accessing the street, people being able to walk into the sidewalk was the justification or the unique circumstance that staff found in supporting the variances.

Commissioner Fadness – Was the issue about the St. Luke’s helicopter brought up or considered by staff or did anyone from St. Luke’s express concern or submit comments?

Ms. Riggs – We have not received any correspondence from the Airport or from St. Luke’s. I would imagine they would have to put some type of a light on the top floor just as they probably had to do for the Washington Group Building right next door. We have not received any comments either way on this from St. Luke’s or from the Boise City Airport. Whatever you do with this application tonight, this certainly can come back to you for a detailed conditional use approval. It’s not my understanding that if this application was approved tonight that the applicant was going to change it greatly unless Design Review asks for changes. This certainly can come back for a detailed conditional use approval.
Commissioner Cooper – When you say it can come back for a detailed approval, that means if we apply that condition to our approval if we approve it?

Ms. Riggs – Yes. Oftentimes when plans come before you conceptually it means that the final details of materials, colors, window treatments, etc., it’s not exact at this point. There might be some changes to it so they are asking for conceptual review. The Commission has the ability to say they are satisfied with the footprint but the footprint can’t change, the layout can’t change but physical parts of the building could change. If you feel like you want this to come back we can add a condition that the applicant should return for detailed conditional use approval. They would submit another application and bring back the final project prior to going to Design Review.

Commissioner Van Ocker – In the applicant’s rebuttal I’d like them to address the sketch that was shown earlier by the neighborhood association showing actually two smaller towers and whether or not they’ve considered that approach and why going with just the singular tower is such a great importance rather than splitting it up and having the same square footage in two smaller towers.

Mr. Waldron (Applicant) – On the helicopter issue, we contacted the FAA and we were told that any private helipad issue is outside of their jurisdiction. We described the project and they said anything that far away from the Airport and flight paths is not of concern to them. We then contacted St. Luke’s and talked to Hal Iverson. Hal said that any helicopter flights within one mile of the hospital is required to be above 500 ft. He first said he would send me a letter to that affect and then he called back and said they preferred to remain neutral.

Rod Gram (Applicant’s Architect/1410 SW Morrison/Portland, OR.) – David mentioned earlier that we did look at a low-rise, but it was 6 stories, covered the whole site and it had parking above ground which on a low-rise project you can’t afford to put parking underground and a low density project. Clearly this site, which is bordered on 3 sides by … or on the west by fairly large massive office buildings really isn’t a site that’s suitable for low density housing. A lot of people were talking about transitional zones. It is a transitional zone, but I think it’s transitional in use. We’re looking at it as transition from office buildings to high density residential to medium residential to single family so we feel it’s appropriate for that site. I don’t want to get into too much of a critique of what one of the presenters presented, but one of the problems with that is if you do have underground parking you’ve got to have two elevator cores to go up through, you’re taking away underground parking and you’re just going to have to feed both buildings. We looked at that but it just didn’t pencil out. It really forced us into having parking above-grade and/or maybe even at a second level but even at that point the low density housing just doesn’t work for that site. One of the Commissioners asked the question about a hardship. One of the hardships and one of the reasons we’re asking for a setback on the 3 sides is because that whole site is bordered by a front yard setback so we don’t have any side yard setbacks or
back yard setbacks. That’s one of the hardship aspects. We were faced with a lot that’s bordered on all 4 sides by a street.

Mr. Waldron – I think there’s a description of the project is looming over the neighborhood as being very massive, etc. This is something that we took very seriously early on in our design considerations. Just to give you an example, the volume of our tower is about 2/3rd’s of the volume of the building right next door. At a glance you can see that 80% of our site is lower than 45 ft. and a good share of that is 15 ft.

Mr. Gram – We have a great opportunity here to create a significant building, a significant symbolic entrance to the downtown urban core area especially coming across the bridge. Instead of seeing the Washington Group Building, you will see this building. I want to state that we have put a lot of time and effort into the design of this building and when we go through Design Review if we get that far, that this building won’t change materially. We see this design as something we will be refining when we present it to Design Review.

COMMISSIONER BRUNELLE MOVED TO DENY CUP05-00152.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Brunelle – I came in tonight hoping that I would hear the applicant present some sufficient evidence for this project as proposed, that it would be compatible with the other uses in the general neighborhood as our ordinance requires for a height exception. I’d hoped to have seen some strong evidence presented because what we are being asked for here is a height exception that is so great. In my book the higher the height exception, the greater the weight of evidence that we need to see in order to grant an exception and I don’t think we saw that here tonight. I think the proposal does not merit approval from this Commission because it’s not compatible with the uses in the general neighborhood. The first finding I have is that the location is too far from downtown and too close into the neighborhood as well as too close into transitioning to the Parkcenter Office Park area to the south of the river for a building of this height in this city. The built forum for buildings, while we do have a couple of large buildings that were part of the Morrison Knudsen Campus, they left sufficient space there for that area to transition into the neighborhood towards the Cosmopolitan and to the south there’s a great setback in that area. The second finding is had it been closer to downtown or closer to Broadway Avenue I could see allowance for a greater height exception for a zone of this area, but what we are presented with tonight is a proposal where we have a height limit of 45 ft. and a proposal asking for a 164% increase over that, so it’s not a minor exceedance. Three sides of this building are low rise, Strawberry Apartments to the east, Cosmopolitan to the east, the apartment complex to the south, bare land and then more single story residence to the north and only one tall building to the west so when you look at all four sides of it it’s basically a 3-1 situation. I agree with the comments from the testimony tonight about a property transition of this building stepping down into towards the neighborhood. I think Mr. Bogart was the one who made some good comments about that. I think the building proximity is too close to the road to allow
granting a height exception for a building this high. Unlike all of the other buildings in that Morrison Knudsen Campus, this would be right up near the road with minimal setback compared to those other buildings. There was a letter in the record from … Heiburger. When I was reading this over the weekend that’s when it really hit home to me that he pointed out the proposed proximity of the building to the streets really accentuates that lack of transition. For that reason I think that we should deny the height exception on this.

Commissioner Cooper – I’m going to support the motion. Although I think there is a lot to like about this project, the mixed use aspect, the retail on the ground floor, putting the parking behind the retail instead of onto the street like we often see so much are good things. In my job as an architect I do a lot of work downtown and have been involved in projects where we’ve been thinking of height exception and we really do need to show a hardship and I’m not convinced that it’s being done on this project. I think it’s kind of self imposed. I don’t really buy the argument that the underground parking doesn’t work with less density when you are putting the same number of units on the site as you have with the tower. I really believe that the variances are self imposed by the design by pushing the tower so far to one side. That amount of units can easily fit on this site. I think 50 units an acre is a great density for this spot but they definitely can fit without being so tall and I can only think that’s because of the sale prices for the higher view units. I just don’t think this project is right for this site.

Commissioner Wilson – I agree that the height is still too tall for this. I wasn’t at the January 23rd, meeting so I read the minutes from that meeting and I’m kind of playing catch-up this evening which is why I had to ask a couple of questions about what exactly the variances are and what the setbacks are going to look like. One of the things that troubles me about the applicant’s rebuttal is that he said he wouldn’t be able to make the underground parking work with fewer stories than what he’s got proposed, but we’ve seen other projects come before this Commission where they’ve done underground parking with even 4 or 5 stories. So I think that if you spread those units along the lot it would be able to be accommodated. One of the things that I’m a little bit concerned about is the idea of transition. I don’t think that this property needs to hit the same kind of transition mark as what we might expect transitioning into a neighborhood because usually when I think of transitioning into a neighborhood I think of something that’s immediately adjacent to the neighborhood, not something that’s separated by multiple lanes of traffic. I work at the Idaho Water Center. It’s a big huge tall building when you cross the street over to the MK area it’s like a completely different world because there is so much roadway between the two. I don’t really buy that this project needs to be 45 ft. tall in order to be able to transition to the neighborhood. I do think that going taller than the existing Washington Plaza Building’s is a bit much. I think that it could be something less than that but more than 45 and that would still work just because the traffic there already creates such a buffer between the neighborhood, I’m uncomfortable with saying that this project needs to transition.

Commissioner Ellsworth – I’m going to support the motion. I’d like to see the building stepped down slightly from the Washington Plaza Building which is 110 ft., I’m thinking maybe 8 stories, 96 ft. I do think it’s transitional in that it’s transitional in use. It’s transitional from
office to high density residential. I like that. If it’s just another office building that’s 8 stories I’d be reluctant to pass the height exception at 8 stories. I like the mixed use component and I like the fact that there is the new urbanism which was explained by Boise City as the reason for the exception. We don’t need an exception for the height. We don’t need a variance for that, we don’t need to show a hardship for that. I hope that EENA and the neighborhoods that are closely affected by this application can get together with the applicant on a project that works because I think it can.

Commissioner Van Ocker – I’m discouraged to say the least. I was hoping that some sort of agreement could be met with the neighborhood and the developer because I think this could be a great project. I think it’s needed. I’m a huge supporter of infill. I think our city is heading down a slippery slope and we’re all going to regret it. I wish that something could have happened and we could have come to some sort of an agreement and I think eventually it will whether it’s this developer or another. That’s why I posed the question to the developer in his rebuttal hoping to hear the answer that I wanted to hear that possibly a 2-tower situation could work. People like to throw out all the buzz words, infill, new urbanism, etc. We’ve got a bond election that’s going to occur in the city tomorrow and it’s got some issues and a lot of those is that we’re moving out of our city because we can’t afford it, there’s no place to live. Our traffic is bad. I think projects like this really do serve a need that all of us are going to have to deal with. I think this design isn’t appropriate. It wasn’t thought out correctly and I wish that we could have gotten there. I’m discouraged and I suppose I will be supporting the motion, but very reluctantly.

Commissioner Wilson – I appreciate Commissioner Van Ocker’s comments because that’s exactly what I’ve been struggling with here to is that I want to support infill whenever I can within the city because I just see the loss of our farmland and the foothills. Particularly farmland is really tough. I was really trying to look for reasons to support this, but I think that asking for 100+ percent increase in the height exception is a bit much and starts to get outside of the planning process for infill and that if we were planning better to accommodate these uses then people who buy these properties could anticipate that these uses are going to come in. When I bought my house a couple of years ago I looked at the surrounding landowners, uses and zoning and I think a lot of people do that and if we go too far outside the planning process it doesn’t support the existing uses.

Commissioner McLean – I too am going to be supporting the motion although I’m like Commissioner Van Ocker, somewhat reluctantly. When I opened my packet last weekend I had hoped to see this work this time around. This is a project that we need in an area where we need it. I think that Commissioner Ellsworth’s suggestion that we just strap it down a little bit would make it so that I would support something like this here. The reality of this area is that it is close to downtown and we, as a city, need to have people living and working in these areas. I lived right across the street when I first moved to this community and I biked every day from that area into town to work. It is a location that’s bike able. The bus that used to run there that I hope in the future would run there would work well. We need a project like this here. I’d like to see the two groups hammer this out once more to try to make something work. For those people that
already live in this area, you are close to downtown and the reality is that you are going to see things popping up in your back yards. It happened to me last year. I look out and suddenly I can no longer see the foothills. At first it was very frustrating and then I had to remind myself that I live in a city and that’s part of living in a city and I’d rather have someone living near me with a bigger structure than moving outwards because of the importance of keeping our air clean and making it possible for people to live and work in the area. I hope that we will see something in this location soon taking into account a somewhat smaller height exception request.

Commissioner Ellsworth – If we deny it, then what happens? Can we toss this around a little bit more since most of us are agreeable that this is a project that we need and can possibly work? Is there a better way to do this than deny it? If we deny it I guess we can’t ask staff at this point… Does it just get rejected? For how long? Can they came back?

Commissioner Van Ocker – It’s my understanding that if it’s denied they have to come back with a new application and it has to be substantially different than the one that they’ve submitted.

Ms. Watson – The waiting period is a year if they don’t change it.

Commissioner Wilson – With the Crescent Rim project the first time that it was before us we denied it because that was the cleanest thing to do. Then they came back with a 15% reduction in density and we determined that was significant and heard it again. There’s still ways to hear it within that one year timeframe.

Commissioner Fadness – I think we want to leave this up to the developers rather than us trying to come up with a plan and design it up here on the bench.

Commissioner Brunelle – I think at this point the best thing to do is just a clean denial although I agree with Commissioner Ellsworth that it would be nice if there would some way to engender some solution to this. One of the problems here I think is we don’t have an objective methodology for dealing with building form in these areas where we have one zone and one use next door to another one. I would hope that maybe out of this something like that could come forth where we would have more clear expectations for people who live in neighborhoods and people who come to us with applications for projects, that they would know what the rules of the road are going to be for things like building height and building form.

Commissioner Cooper – We often come to this variance exception argument, hardship deal and I often feel unprepared. I just feel we often get recommendations from staff that they think this exception, in this case over twice the allowed height for this area, is okay and that’s all we get. I would appreciate a little more guidance.

MOTION TO DENY THE APPLICATION CARRIED UNANIMOUSLY.

CAR06-00002/West Bench Neighborhood Association
REQUEST A COMPREHENSIVE PLAN TEXT AMENDMENT TO CHAPTER 6, TRANSPORTATION GOAL 6.1, OBJECTIVE 1 TO ADD A NEW POLICY RESTRICTING LANES IN STREETS TO NO MORE THAN THREE AND WIDTH OF THE STREETS.

CAR06-00003/West Bench Neighborhood Association
REQUEST A COMPREHENSIVE PLAN TEXT AMENDMENT TO CHAPTER 7, COMMUNITY QUALITY GOAL 7.2 WHICH WOULD NOT ALLOW EXISTING NEIGHBORHOODS TO BE SPLIT BY 5-LANE ROADS.

Karen Gallagher – The purpose of a comprehensive plan is to serve as a guide to govern all land use decisions. The applicant is proposing two comprehensive plan text amendments to protect residents and neighborhoods from the impact of five lane roads. The applicants propose limiting all minor arterials to three lanes and the second proposal is to restrict a neighborhood from being divided by a 5-lane road. It is critical that the Comprehensive Plan apply to all situations that the City may face. The proposed amendments would pertain to all minor arterials within the City of Boise and all neighborhoods within the City of Boise. Staff understands and agrees that a problem does exist but our analysis indicates that there are problems with the scope and details of the proposed policies, one is too limiting and the other is too general. Staff is concerned with applying the proposed amendments on a city-wide basis. As an alternative to the applicant’s proposal, staff is recommending a modified solution that we believe meets the intent of what the applicant is proposing. Staff’s revised amendments take a more comprehensive approach to dealing with the multitude of purposes that minor arterials should accommodate. Staff’s recommendations include modifications for the specific definitions of principle and minor arterials, review of all minor arterials to create an effective network of bike lanes throughout the City, to preserve the land use abutting minor arterials through flexibility and allowing for a range of two to five-lane roads with enhanced mitigation as the number of lanes increased and adding standards for pedestrian crossings on principle and minor arterials. I’ll take each of the applicant’s proposals and review the findings on those and then go through staff’s proposal and staff’s findings as well. Although there is typically a correlation between the functional street classification and the number of travel lanes in urbanized areas, problems exist when trying to limit functional classification to the number of travel lanes only. Functional classification of a street relates to the type of travel on the road, not the amount of vehicle trips served. For example, a 2-lane principle arterial may serve regional trips between two cities. In the same situation, a 7-lane principle arterial may also serve the same two cities. The difference between the two is volume; it’s not functional street class. Generally principal arterials have been understood to serve regional vehicular trips and minor arterials have been understood to serve sub-regional trips. However, a detailed definition of these two breakdowns is not included in COMPASS’s Long Range Plan, ACHD’s Policy Manual or Boise City’s Comprehensive Plan. A trip’s purpose or type is associated with a certain level of mobility or speed. Principle arterials are designed for greater mobility than are minor arterials. Mobility is directly related to access restrictions along the road. Increased access restrictions promote increased mobility and therefore less delay. For this you can compare the differences in access restrictions resulting in
mobility between the four lanes on the Interstate and the four lanes on Cole Road. The issue with functional street classification is trip type, mobility, access restriction, not the number of travel lanes. There are five required findings to approve a Comprehensive Text Plan amendment. Staff notes concerns with four of the findings for the proposed amendment to restrict minor arterials to three lanes. The first finding states that the amendment is in compliance with and will further the goals, objectives and policies of the plan. Staff is concerned that this proposal would not further the goals, objectives and policies when applied city-wide. One of the goals in the Comprehensive Plan is in the Transportation Chapter to maintain the street system for current users, emergency services and future generations, Goal 6.1. Further, Policy 6.1.2.6 discourages cut-through traffic and discourages routing traffic through a neighborhood on a local street by providing an adequate arterial and collector system. Placing an artificial lane limit on minor arterials will not maintain the street system. The city currently has 5-lane minor arterials throughout the city that serve sub-regional trips. If 5 lanes are justified to serve sub-regional trips, a disservice results if the road is artificially limited to 3 lanes. The vehicle trips will travel on other routes such as collectors and local roads resulting in increased noise and traffic impacts along local and collector roads and possibly over capacity collectors. The next finding states that the amendment will not create inconsistencies between the goals, objectives and policies within or between any chapters of the plan. Staff is concerned that this proposal would create inconsistencies. As we’ve stated, one of the goals of the plan is to maintain the function of the street system. Additionally the amendment would not necessarily meet the objective of insuring consistency between street improvement and land use plans. Policy 6.1.13 details the City’s review of the street classification system including the requirement for any reclassification to meet an analysis of: “Existing land uses, lotting patterns, location of structures, impacts on neighborhoods and area-wide transportation needs. Upgrading of residential street to collector and arterial status shall be discouraged and shall occur only where a significant community-wide need can be identified as part of the adapted regional transportation plan.” Unilaterally restricting minor arterials to 3 lanes is unrealistic and inconsistent. Included in the staff report is a copy of the Functional Street Classification. In general, I wanted to point out in this that the minor arterials are shown in green just to show the application of any policy that deals with minor arterials. There are a number of 5-lane minor arterials within the city, Federal Way, Curtis Road, Overland, Victory, 5 Mile and sections of McMillan, Emerald and Apple to name some of them. The issue of widening streets and with how many lanes should not be confused with functional street classification. In some cases the land uses will be better served by limiting minor arterials to 3 lanes. In other scenarios however a minor arterial may be 4 or 5 lanes and the land uses may be protected through appropriate mitigation measures. The next finding states that the amendment will not place an undue burden on transportation or other public facilities in the planning area and does not adversely impact the delivery of services by any political subdivision providing services. The proposed amendment has a high probability of placing an undue burden on the transportation system and will most likely adversely impact the delivery of services by ACHD and Valley Regional Transit. With the restriction on minor arterials to 3 lanes, transit and general travel routes may not function efficiently because busses and other vehicles would be stuck in congested minor arterials that are over capacity during the peak hours. If lane restrictions are placed on minor arterials and given
that most collectors are built with 3 lanes, sections of the transportation system could be severely hindered from serving the sub-regional transportation needs throughout the city. ACHD is not supportive of the proposed amendment and has written a letter detailing their concerns and they are also here tonight. The Capitol City Development Corporation has submitted two letters, one that was included in the original staff packet and one that was handed to you tonight just prior to the meeting. CCDC is concerned that limiting the arterials to 3 lanes with a maximum of 50 ft. curb to curb would conflict with some of their goals seeing as Downtown streets are generally different that they do have on-street parking on them and that the specific width of the street is a concern to them. Additionally, CCDC is concerned about State Street. It is classified as a minor arterial in the section closest to the Capitol and they are concerned how this would possibly cause some restrictions on that section of State Street. CCDC’s second letter also addresses staff’s recommended changes which I will get to that in staff’s proposal. Finding B states that the amendment is necessary to address changes and conditions within the community that have occurred since the Comprehensive Plan was adopted or is necessary to correct one or more deficiencies that exist in the plan. Although the amendment is needed to address neighborhood issues and impacts and to add design criteria to better integrate the land uses such as in a neighborhood along a minor arterial, the applicant’s proposal to meet these goals by limiting arterials to 3 lanes is probably not the most feasible route. Staff recommends amendments to the goals, objectives and policies to better meet the applicant’s intent in a manner with policies that can be supported by the City, Valley Regional Transit, ACHD and COMPASS. The next proposal is CAR06-00003 deals with existing neighborhoods not being split by 5-lane roads. Again we have five findings that would need to be met for this proposal. Staff has concerns with 4 of the 5 findings on this as well. The first finding states that the amendment is required for public convenience or necessity or for the general welfare of the community. For public convenience and necessity staff finds that 5-lane roads are needed on some minor arterials throughout the city to provide for efficient transit routes and efficient sub-regional travel routes. Dealing with finding C, that the amendment is in compliance and will further the goals and objectives of the policies of the plan. Staff is concerned that the proposed amendment would be difficult to enforce without a definition of the term neighborhood. There is not a definition for what the boundaries of a neighborhood are within the Comprehensive Plan, the Zoning Ordinance or the application. The City has mapped the registered neighborhood associations as I’ve shown on the overhead. We have associations that range in size from a half square mile to 13 square miles. Some residents could argue in the future that their neighborhood association is a neighborhood, others might come up with their own definition of a neighborhood that if there are residential uses on either side of the street that that’s a neighborhood. The proposed amendment can easily be interpreted differently leading to inconsistencies which would provide little guidance for the City or for ACHD. Finding E states that the amendment will not place an undue burden on transportation or other public facilities. Again, the amendment has a high probability of placing an undue burden on transportation. If the proposed amendment is interpreted too loosely the Southwest Neighborhood Association, which is approximately 12 square miles, could be restricted from any 5-lane north/south and east/west roads constructed on the section lines in the future. In the Southwest we don’t have any principle arterials designated at this time so 5 Mile, Cloverdale, Victory, all of those would be impacted by this proposal. This
could impair ACHD’s ability to construct roads to accommodate the traffic created within a neighborhood association. ACHD is not supportive of the amendments and has written a letter detailing their concerns. The next finding states that the amendment is necessary to addresses changes and conditions within the community that it occurs or is necessary to correct one or more deficiencies. Staff finds that constrained 5-lane roads designed with substandard bike lanes, less than 5 ft. of asphalt, sidewalks that are attached to the curb with concrete or hard surface and without mitigation for the abutting residents do not protect neighborhoods. However, 5-lane roads do not have to result in major impacts to the abutting land uses be they residential, office or retail. With the adoption of arterials definitions, design standards and mitigation criteria, 5-lane roads that serve sub-regional trips can integrate the abutting land uses rather than dividing them. Staff has included proposed revised amendments listed below that again we believe could be something supported by the City, Valley Regional Transit, ACHD and COMPASS. I’d like to address staff’s revised amendments. The Comprehensive Plan, as we’ve talked about, is designed to allow flexibility so that it can govern a multitude of situations while still providing basic protections. One of the first changes proposed by staff is just to widen the goal statement in the Transportation Chapter, Goal 6.1 to specify the current users being pedestrian, bicyclists, transit and motorist. Remaining within this chapter under Objective 4, starting with Policy 10, staff’s proposing: “Work with the Ada County Highway District and the Idaho Transportation Department to define principle and minor arterials and to specify the differences and access control, speed limit and right-of-way.” Further, staff is giving some perimeters in 11 and 12 to deal with differences. 11 would state: “Principle arterials primarily serve regional strips. Principle arterials also have greater mobility for through traffic and more access restrictions as compared to minor arterials. The following land uses are compatible and are examples of what should be located abutting principle arterials.” These include industrial, major employment, civic centers, convention centers, offices complexes and buffered high density residential. Staff proposes a new Policy 12 stating: “Minor arterials primarily serve sub-regional trips. Examples of sub-regions are the Southeast, the Central Bench and the West Bench. Access is restricted on minor arterials but not to the same extent as on principle arterials. Mobility of sub-regional traffic is balanced against the need of pedestrians, bicyclists and vehicles to cross the minor arterial. The following land uses are compatible and are examples of what should be located abutting minor arterials. These include mixed use developments, offices and buffered residential developments.” Policy 13 would state: “Once a minor arterial is designated it should not be expanded to meet regional need without first reclassifying it to a principle arterial on the Functional Street Classification Map.” Staff’s recommending a modification slightly to Objective 5 to clarify that the objective is to maintain safe and comfortable neighborhoods and the part that we’re striking we’re setting specific policies for: “Policy 1. Set speed limits that do not have adverse affects on pedestrians, bicycles and vehicles crossing arterial corridors. Policy 2. Detached sidewalks are strongly encouraged on streets with more than 3 lanes.” No changes are proposed to Objective 6 and its policies as it deals with street lights. Staff is recommending adding Objective 7 to incorporate design elements into arterials to provide for motorized and non-motorized transportation needs within the arterial corridor and for pedestrians to cross the corridor. Special emphasis shall be placed on integrating land uses on both sides of minor arterials.” It is within this objective that CCDC is
concerned that these proposed policies would not apply to downtown streets and their recommending some language be placed here to allow for that flexibility or to exempt the downtown streets. We’re almost through the proposed policies by staff. The first policy is to utilize minor arterials to build a network for bicycle transportation and transit throughout the city. Here we are specifying that bike lanes shall be a minimum of 5 ft. wide. Policy 2 states that pedestrian provisions on principle and minor arterials shall include: (a) detached sidewalks that are separated from the curb and allow for tree lined streets; (b) pedestrian activated crossings at a quarter mile with specific emphasis on getting pedestrian crossings for access to public facilities such as schools, event centers, swimming pools, the greenbelt and noting that they are of the highest priority; (c) enhance pedestrian crossings with changes and material elevation and/or markings from the rest of the street to bring more attention to the crossing. An example of that is the pedestrian crossing for 8th Street on Front Street that had the countdown, it’s got a different signal there for the pedestrians, it’s also got some different markings and spacing to really draw attention to the fact that pedestrians are crossing there; (d) medians are encouraged to provide a point of refuge for pedestrians. Finally staff is recommending adding Objective 8: “Mitigate residential areas from the impacts of 5-lane arterials to preserve the stability and livability of all the residential uses.” Policy 1 is to mitigate noise impacts with landscape buffers, berms and/or sound walls to protect the livability of the residents. Policy 2 is mitigation measures shall include one or more of the following to preserve the stability and livability of abutting residential uses: dense landscape buffers within the right-of-way, berms within the right-of-way, landscape medians and lower speed limits. Staff’s findings for these proposed revisions are listed in the staff report. In summary the revised amendments take a more comprehensive approach to dealing with the multitude of purposes that minor arterials should accommodate. Staff’s proposal creates more balance between the need for road expansion while preserving the stability and livability of the abutting land uses. Staff has set forth clear objectives and standards for the City’s expectations on what mitigation is required when widening arterials as well as setting safety and comfort standards for pedestrians through the use of detached sidewalks and enhanced pedestrian crossings and minimal bicycle lane widths. Staff’s proposal also covers a system for people to utilize alternative transportation by providing those pedestrian crossings within a quarter mile frequency which is noted as the range of what a pedestrian will walk to get to transit. Staff’s proposal also allows for increased pedestrian access to land uses on either side of the corridor with specific emphasis as we’ve talked about to schools, community pools, civic centers and the greenbelt. Prior to the meeting I gave to the Commission a letter that was received from Fred Shoemaker, the applicant’s attorney, that’s dated March 7, 2006. I’ve also given to the Commission a follow-up letter from the Capitol City Development Corporation from Mike Hall which asks for their addition to Objective 7 to state that design solutions appropriate for many areas of Boise City may not be appropriate and contrary to the design objectives for arterials in downtown Boise. I’ve also given you a letter from COMPASS dated March 13, 2006 that signed by Matt Stoll. In it they discuss functional street classification and that limiting minor arterials to only 3 lanes would be unfortunate and the one size fits all approach. They have also included a map and what they are doing is showing that the minor arterials are all in the thicker dark black line similar to the purpose of the staff gave you of the Functional Street Classification Map to show how these amendments would
apply throughout the city. Additionally, COMPASS has provided a table showing the range of trips, traffic volume on our minor arterials to show that the one size fits all approach would not be appropriate. There were two letters, one for each of the amendments proposed, from DEQ in that they did not have any concerns with the proposed application. Staff recommends modified approval of CAR06-2 and CAR06-3 as stated in the staff report.

Sara Baker (Applicant Representing the West Bench Neighborhood Assoc./8704 Ustick Road/Boise) – Unfortunately because of the way the agenda worked out, a number of people from our neighborhood have left that are in favor of our proposed changes. Let me just thank you for your service because I’m reminded, sitting in the audience, of how deadly it can be, not only for the people in the audience, but for the people at the dais. You tend to forget those things after awhile, but just know that you are appreciated no matter how you vote. First let me say that Karen has already gone over what our proposed amendments are, the 3 lanes with the widths of 42 ft. or 50 ft. and also 5-lane roads should not cross neighborhood boundaries. Let me say that based on the staff report, if I were an ACHD Commissioner I’d give Ms. Gallagher a pay raise and a bonus. However, in looking at this from a standpoint of the City of Boise, the City of Boise’s Comprehensive Plan, the City of Boise’s residents and the City of Boise’s Planning & Zoning, this is an abomination of a staff report. This report completely bastardizes our proposal and takes inappropriate leeway with our, she bootstraps a lot of things inappropriately. She’s turned it into something that we never intended and on more than one occasion in her staff report, and even in speaking, she has stated that ACHD is not supportive of the proposed amendment. Well, you know this is a Boise City Comprehensive Plan and if the Ada County Highway District isn’t supportive, the Ada County Highway District is not supportive. There’s also some sloppiness in the staff report. You’ll notice that she changes interchangeably between the West Bench Neighborhood Association and the West Valley. We’re two separate neighborhoods. We both go along Ustick Road, but we’re two separate neighborhoods and it’s the West Bench Neighborhood Association that has proposed these amendments. I ask that you set aside this staff report and just totally dismiss everything you’ve heard because it basically tears off into territory not covered by our proposed amendments and in fact it strengthens ACHD’s position to the detriment of the City of Boise and its neighborhoods. Planning staff was directed, on December 20, 2005, by unanimous consent of the Boise City Council to prepare revisions to the Comp Plan, Chapter 6, Transportation Chapter, that updates the functional classification of streets within our city limits, but also beyond that, for example and I will quote: “Minor arterials, residential arterials should never exceed 3 lanes for autos and should have a designated bike path.” It goes on to talk about residential areas, traffic calming amenities should be designed into the road, not fitted after the fact, whatever. You know the staff had the opportunity to do that and didn’t and chose not to do that in a timely manner so that’s why the WBNA, who had encouraged the Council to take these steps as well as a couple of others that they did take. We submitted our own changes in January and it was fast tracked but apparently that broke down so we’re not on the agenda for April 4th. Why did we do this? Because simply conditions have changed so sweepingly in our community that to do less would be to have our neighborhood destroyed while waiting for the staff to act on the Council’s directive. In the 2025 Regional Transportation Plan, Ustick Road is considered a minor arterial. It was not scheduled
for widening to 5 lanes. It was in the preservation mode. This was approved on September 16, 2002. Two short years later, in the 2030 Plan, apparently increments of 5 years go into 2 years real time, I don’t understand that, but 2 short years later in the 2030 Plan Ustick Road was removed from the Regional Plan because it was not considered regionally significant. ACHD at the same time embarked on a surreptitious change in the width of the road to 5 lanes from the 3 lanes that it currently is now, unveiling it to the public and to the City of Boise only after it was a done deal. There was no public hearing. There was no public input and in fact every appeal to ACHD to slow down, wait for the Blue Print of Growth to be done, etc. on the part of the City Council, the property owners, the neighborhood and the general public was met with basically a giant finger from ACHD. This amendment is not just about Ustick Road. It’s about all the minor arterials in the City of Boise. Karen Gallagher did get something right. It is included but not limited to Collister Road, Hill Road, Warm Spring Blvd., Warm Springs Blvd., Boise Avenue, 30th Street and all the others that are here. Ustick Road was not the only minor arterial removed from the 2030 Plan as being not being regionally significant. Boise Avenue from Capitol to Broadway and then beyond that from Eckert Road, Collister and Warm Springs were also removed. There is nothing to prevent ACHD, at this point in time, from unilaterally doing to Boise Avenue, Collister and Warm Springs, what they now wish to do to Ustick. No noise studies, no environmental studies, no consultation with the affected parties, they just do it unilaterally. I’m sure you’re all thinking that this could never happen because I’m hold in my hand tapes of the meeting from September 28, 2005, when Commissioner Sherry Huber said unequivocally that all, all minor arterials in Ada County should be 5 lanes period. No other discussion, 5 lanes. She wants to see that. If somebody tells you something that they’ve already acted on, as in the case of Ustick Road, shouldn’t we believe them? Putting 5 lanes on all of these streets is the equivalent of putting 10 pounds of flour in a 5 pound sack or maybe 5 pounds of flour in a 3 pound sack. It doesn’t fit and it ends up destroying the sack. Limiting minor arterials to 3 lanes gives the City of Boise the additional heft it needs going up against ACHD. Allowing transportation to determine land use is completely backwards. If these streets go to 5 lanes no one is going to live on them and all of these streets that I’ve mentioned are basically residential streets. The land is going to go commercial whether you approve it or not, whether you want it or not, whatever. It’s going to happen and it’s going to be big box if there’s enough property that you can mass together or it’s just going to be strip commercial. All you have to do is look at Orchard Street for your template. Now if you happen to have any remaining residences that survive this, they are going to turn into unmaintained rentals and they’re going to be just perfect for meth labs and crack houses although I guess we don’t have too many crack houses in Boise, we do have a lot of meth labs. Land use should determine transportation. In the City’s Comp Plan Ideals, it states: “Neighborhoods should be protected from undue traffic impacts and should retain their own distinctive sense of place and identity.” This is extremely hard to do when part of that neighborhood is destroyed. That’s why it’s also important to include the other Comp Plan change that we’ve proposed, that neighborhoods should not be split by 5 lane roads. This is as true in the West Bench Neighborhood area, the West Valley Neighborhood area as it is in the South Boise area which will be split by Boise Avenue and the Collister Neighborhood which is split by Collister Road and the East End area that’s split by Warm Springs. Ms. Gallagher had a difficult time determining what the definition of neighborhoods should be and I
personally find this perplexing because the City has recognized neighborhoods through neighborhood associations for over 20 years. As recently as May 12, 1998 the Boise City Council passed a resolution reaffirming the City’s efforts to facilitate neighborhood planning and defining collaborative principles which guide the relationship between the City and registered neighborhood associations. I’ve got it right here and I’d just like to read a couple of things from it. It said that the City shall continue its neighborhood planning program to enable the City and its various neighborhoods and communities to work in partnership to improve the quality of life within the neighborhoods of the city consistent with neighborhood goals and the city-wide vision as described within the Boise City Comp Plan. Neighborhood issues will be viewed from a broad perspective which reflects the diversity of neighborhoods and that efforts should be made by the City and neighborhood associations to understand and consider the opinions and special needs of all residents. The City and various registered neighborhood associations will work in partnership to improve the quality of life within the neighborhood by helping people achieve their goals for their neighborhoods, involving the neighborhoods in determining the best ways to achieve established city-wide goals, etc. Neighborhood associations are synonymous. The Comp Plan Goal, 7.3, Objective 4 states that it will formally recognize the City’s neighborhoods and neighborhood planning program. Mayor Bieter, in his State of the City 2005 Address, knows what neighborhoods are. He talked about a neighborhood by design, a neighborhood city by design. Perhaps staff could start with these references to determine what neighborhoods are and just because Ms. Gallagher is confounded by the ranges and sizes of neighborhoods doesn’t mean rest of us need to be. The City has recognized neighborhoods through recognized neighborhood associations. You also have a neighborhood planner. You can talk to him. I’m sure he’ll tell you the same thing. I want to take you on a little tour of what 5 lanes into our established neighborhoods, not just one, but neighborhoods will look like. There’s going to be more pictures of Ustick Road because that’s the road that’s in immediate peril. ACHD has already staked it and they are going hell bent for leather to get this road built out. But, there’s also going to be pictures of Collister Road and Boise Avenue which will illustrate why these amendments are needed. This first one is a little in from the corner of Cole and Ustick. The pink flags are where the right-of-way is. That’s where the sidewalk will end. You can see we’ve created a new urbanism for the West Boise Sewer District and they didn’t even know that was going to happen. The house beyond that is going to obviously lose all the trees and buffering and will not even have room for the car that’s back there. This is the City of Trees. Along this 2-mile section they are going to destroy 200 trees and they are going to replace 0.

Commissioner Brunelle – Is the right-of-way acquisition on both sides of Ustick?

Ms. Baker – No. Just the one side. It was supposed to be on both sides, that’s what we were told, but there’s power poles on the other side and I guess it just became too expensive so it’s easier to destroy one side of the street and leave it looking like Dresden than it is to follow your particular plan. This is just a little further on and you can see the car sticking out. He’s going to lose his parking space. If you take a wrong turn coming out the wheelchair ramp, Mr. McClouie lives here, if he takes a wrong turn he’s going to end up in 5 lanes of traffic. This is Bayhill Springs. It was a development that was done a number of years ago. This used to be Tim
Gibson’s property and he had beautiful trees lining Ustick Road. They were able to save them. They put the curb, gutter and sidewalk in just like they were told that many years ago. It’s part of a mixed use development. It’s got the residents behind it and the office up front. All of those trees will be gone and a lot of their landscaping and it’s going to put the road very, very close to the windows of the obituaries. These two structures were built within the last 2-3 years. The one in the foreground was built within the last year and you can see where the stakes are. It’s interesting, in Mr. Stoles he talks about the 1961 plan and how these roads were supposed to be widened. Quite frankly I was sitting up there for 16 years. I never heard of the 1961 Plan, nobody did. This is something that just sort of became resurrected within the last year or so. But you’d think that if this thing was supposed to be since 1961 widened, they wouldn’t have allowed stuff within the right-of-way or they would have purchased the right-of-way in 1961. You can see how their new landscaping is going to be gone. This was at triplex that was built. He put a beautiful buffer in the front. We’ve watched it grow up over the years. All those trees will be gone. This is my favorite because you can see that the sidewalk is right at the building line so there’s no side yard setback whatsoever. This is an attached patio home. Who knows how they are going to deal with this. Are they going to buy it and rent it out or are they going to cut it off from the other one? It’s hard to say. I do know that a woman lives in this house that’s homebound and I guess she doesn’t get out much so they don’t particularly care. Across the street from that you’ll notice this has curb, gutter and sidewalk on a 3-lane section. This is Hillview Methodist Church. It was redone in the last few years, curb, gutter and sidewalk to a 3-lane width. Interestingly enough Commissioner Dave Bivons goes to this church. He went to this church when they did that. This is the day care. We’re a real mixed use neighborhood, but this is the day care and you can see how it just sort of slices completely off. This house, she’s going to be, her bedroom’s on this side 5 ft. from 5-lane roads and all the trees you see are gone. This is Boise Avenue. As you can see it’s 2 lanes with curb, gutter and sidewalk on one side. I don’t know where they are going to widen this or how they will widen this to 5-lanes. I talked to Gary Allen. I don’t think he could be here tonight, but he said they don’t even want to see it widened to 3 lanes so 5 is really going to destroy this. You can see it’s built out to both sides. Houses are fairly close to the street. It will just be destroyed. This is Collister Road at the corner with State Street. It’s 2 ½ lanes wide. You’ll notice I hope that there hasn’t been a lot of traffic on these roads. These pictures were taken during the day during the week. They were taken on Saturday. This one was taken on a Saturday so basically it is busy just like everywhere else in the City when it is peak hour. Other than that, if they time the lights then it would work out really well. This is Collister and you can see how close the houses are to the street. This is a section that could probably be widened to 3 lanes with curb, gutter and sidewalk on both sides if they restripe it. Still, if you went to 5 you would kill it. This is what Orchard looks like and as you can see, it’s got beautifully mature trees. It’s got really vibrant upscale businesses. I really enjoy looking at the flowers in the spring that they have here. It’s the epitome of urban planning. You can see it’s just lovely with great, great businesses and of course I’m being facetious. Ms. Gallagher talks about maintaining the livability of a street with 5 lanes. I mean as you can see there is no livability of a street if it goes to 5 lanes. The goal of the Comp Plan is to accommodate economic growth while protecting the quality of life components that Boiseans find so important. Right in the Goals, Objectives and Policies of the Comp Plan it says: “Much
of what has been developed in cities across the country in the past 40 years has been oriented to accommodate and even dictate automobile travel. The automobile orientation has let to the following negative impacts that contradict the quality of life components that Boiseans treasure: loss of neighborhood feel and integrity, dramatically increased traffic congestion, steadily worsened air quality.” Our amendments compliment and enhance the existing Comp Plan. Earlier conditions have changed. ACHD is unilaterally changing the face of our community and our neighborhoods. While they are supposed to follow the City’s Comp Plan, in fact they sneer at it. You have the letter from Fred Shoemaker, the lawyer that’s helping us. He’s going to be talking about that in a little while. As we all know and as is happening here, the Comp Plan can be changed. It’s not written in stone. So if these amendments are incorporated all ACHD has to do is come to the City for permission if they want to change the lanes to something more if they have a good enough case. Then they can explain that case to this Commission, the City Council and the citizens of Boise why they need to make the changes. It puts us all on an equal footing. As Karen pointed out, each amendment must meet 5 criteria and both of our amendments do this and I am not going to reach each one of the findings and then go back and forth. I’m just going to generally do it that (a) is for the general welfare of the community, and what could be more appropriate to the general welfare of a community then keeping our neighborhoods strong and intact. If 5 lanes are needed, ACHD could come to the city, present a case and then perhaps do some mitigation because they are not doing any now, that’s for sure. (b) Necessary to address changes in conditions, as I said the streets that used to be in the Regional Plan and had the protection of that plan and the protection of the review by COMPASS are being left to the whims of ACHD without any public input. (c) Amendments in compliance with and will further the goals, objectives and policies of the plan, and (d) that it will not create inconsistencies. Some of the policies that would meet this are 6.1. I’m almost done.

Commissioner Fadness – When you say you are almost done, could you put a timeframe element on that?

Ms. Baker – Well, Ms. Gallagher took half an hour.

Commissioner Fadness – That’s what I’m trying to say here. She took 26 minutes. Will you be able to complete your presentation in less than 6 minutes?

Ms. Baker – Probably.

Commissioner Fadness – Please do so.

Ms. Baker – But we do have 2 Comp Plan changes.

Commissioner Fadness – Right, and Ms. Gallagher addressed those both in 26 minutes.

Ms. Baker – 6.1, Goal 1, Objective 2 says: “Maintain a land use decision making process... and which is protective of living environments along streets.” Goal 8, Objectives 9 and 10, which
relate to the Southeast: “Existing single family neighborhoods in the area of Boise State University, which reflect the character of well maintained owner occupied homes should be preserved to the extent feasible.” Goal 7.2, Community Design: “Promote and establish a physical framework of development in the city which encourages the development of form and character of its districts, the preservation of its neighborhoods.” Goal 8, the Northwest, Chapter Land Use, this is an interesting one because 36th Street shall be developed as a 3-lane arterial. So there is precedence within the Comp Plan for limiting minor arterials to 3 lanes and then it says if they want to make it 5, they have to include a whole bunch of things in order to make it livable. Land Use Goals, Objective 11, Chapter 8 for the West Bench, Policy 7: “Pursue a variety of strategies including regional land use and infrastructure planning and coordination to mitigate impacts of through traffic on the West Bench from surrounding communities. The noise goals, 3.3: “Protect a peaceful, quiet and healthy environment free from excessive noise and disruptions including measuring the noise contours along arterials.” (e) Will not place an undue burden on transportation and it really doesn’t impact adversely any other jurisdiction like ACHD if they were to follow the existing plans already agreed to by everyone and not make unilateral decisions. ACHD continues to cravenly state that they wish to work with the City even as their actions belie that. In fact in furtherance of the City’s Comp Plan statements that neighborhoods should not be burdened with traffic, ACHD should accelerate the widening of Fairview Avenue. In summation, the WBNA believes that these amendments are necessary. These amendments further the strengthening of neighborhoods which is a hallmark of this Comp Plan and this City and its leaders. Passage of these amendments will affirm the city’s commitment to neighborhoods and the City’s quality of life.

Fred Shoemaker (Attorney Representing the West Bench Neighborhood Assoc./815 W. Washington/Boise) – By the letter I submitted to you I tried to give you some well grounded legal reasons and I might be too presumptive to say it’s beyond debate, but certainly it seems at least intuitive that as I say in a nutshell in the first couple pages of that letter that somebody has to be in charge and although the Ustick Neighborhood, technically the West Bench, is not here to create an adversarial relationship or we don’t need one as between the City and the Highway District I think there is maybe enough adversarialness going on. I think somebody at the end of the day does have to be in charge and it should not be the Ada County Highway District, as Mr. Frandon in his letter tells you it really is, it should be the City. It should be you, your staff, your mayor and your council and really that’s why we’re here, Mr. Eberle’s remarks that you heard Sara Baker quote. The City Council instructed the staff to come up with an amendment and the quotation is very much indeed like the first sentence or the first part of the textual amendment that you hear. I think that if you look at the law, it does say our State Legislature did say that it’s cities, technically governing boards, not special purpose highway districts that are in charge. In this County we’re unique in having a county wide highway district, but it’s you the City that’s in charge and so all we’re really asking, and I really want to kind of step back for minute and say it’s really a par dyne shift I think the Highway District would call it. We’re not asking to stop absolutely the conversion of all 3 lanes to 5 lanes that are designated minor arterials. You’ve heard Ms. Gallagher tell us that some minor arterials carry regional traffic and some principle arterials carry sub regional traffic and some 3 lanes carry regional traffic and some 5 lanes sub
regional traffic. The designations that are on paper, regional road or a minor arterial, are those kinds of designations as the Highway District established a couple years back when they redefined kind of unilaterally what Ustick was, are paper designations. A more cynical definition might be they are kind of made up or pretend designations. At least they are pretty easy to move around. What we are here asking for, call it what you will, is we’re saying that don’t build any 5-lanes through neighborhoods and don’t have 3-lane roads beyond wider than a certain width and by doing that we know that we will have real limitations, not just pretend designations that could be changed unilaterally as the Highway District with regard to Ustick. The issue here is do we need to convert 3-lane minor arterials to 5 lanes without a public hearing. All these 2 Comprehensive Plan amendments do, and I think there is less collateral damage with them than with Ms. Gallagher’s far broader text amendments. To her credit I think she’s well intentioned, but the upshot is she goes way beyond what the City Council directed the association and directed staff and that was just figuring out what to do with really trying in a word to solve the Ustick Neighborhood problem. I think the City Council were trying to give great deference to that particular neighborhood and neighborhoods generally. These two text amendments will prevent the injustice that would befall the Ustick Neighborhood. Without a doubt to quote one of the Highway District staffers, the horse is really out of the barn here. Ms. Gallagher’s amendments don’t solve the problem, won’t solve the problem, even the concerns of the CCDC. All we’re asking is that, and these amendments would only require a public hearing if some later day we were to change or allow other than conversion of 3-lane minor arterials to 5 lanes. I don’t think that’s so bad and I think that Ms. Gallagher talks about pedestrian activation, talks about bike lanes, talks about air quality. But, again from this neighborhood’s perspective the only thing that’s going to save their neighborhood are these two text amendments or ones not very far removed from what we’ve presented.

Commissioner Van Ocker – I read your letter. I found it pretty interesting but I’ll jump to the chase. You don’t want to be talking to us do you? You want to be talking to City Council.

Mr. Shoemaker – Well I think the City Council wants the Comprehensive Plan amendment. Take no offense but we do want to be talking to the City Council.

Commissioner Van Ocker – I take offense. I take offense to Ms. Baker’s presentation to us and to her attitude towards our staff and the effort. I take offense to how we’re being addressed. We are a process in this. Your letter has a lot of very interesting legal arguments. I feel as though we are a step for you guys. You’re off to fry bigger fish and quite frankly I’m ready to just let you go do it and see how far you get because it’s going to be a fight but it’s not a fight with Planning & Zoning and it’s not a fight with Karen Gallagher. We have a breakdown quite honestly in the way ACHD and our City work. I actually agree with a lot of the things you are saying and a lot of the presentations that were made. I think the process that you are taking is a little unfair. I’m wondering, to be quite honest, my question to you I guess and to the rest of the people here is what do you want us to do about it? Do you want us to go ahead and make a Comprehensive Plan amendment, send it on to our Mayor and you want to get into a fight with him about this and City Council. Is that what you are actually asking us to do?
Mr. Shoemaker – I actually don’t think, and for this record not to be presumptive of you and certainly not the Mayor & Council. I believe a majority of the Council members agree with these two proposed amendments. I think I did give Ms. Gallagher the respect that I hope she deserves. I think her remarks were obviously well intended and she put a lot of time, energy and effort into it. I think if we had more time, months, not weeks, you saw from the … Ustick neighbors with I met with twice now, are scared to death that they are going to lose their home. It is with real heightened anxiety that we’re here and with all respect to your efforts, I think I know how much you’re getting paid for this evening’s work. I want to at least close like Ms. Baker opened with a heartfelt appreciation for your time. I hope that you will see some of the wisdom in our brief recommended changes and I hope that you will make a recommendation echoing what we’ve asked or what we proposed and not Ms. Gallagher. I think Ms. Gallagher engages a far wider, but with all respect to her, an unnecessary debate for purposes of my clients, the West Bench folks and the property owners on Ustick. Sometimes maybe later this summer I think it would be well advised to take up all the changes she proposes, berms, parkways, bicycle lanes, but there isn’t any time for those kinds of considerations and they wouldn’t work to put it flatly in the Ustick Neighborhood. We’d have berming up again people’s foundations. Those kinds of things won’t help my clients.

Commissioner Wilson – When this does go forth to City Council, is this one of those situations where their only options are to look at what we’ve done and determine whether we followed due process, or are they actually going to open up the whole book on this and look at the whole thing again? I know that for some of the actions that we do, the buck basically stops with us and then they approve or deny what we did and for other actions City Council is more involved and takes a more active role.

Ms. Gallagher – They will consider your recommendation.

Commissioner Wilson – So we’re presenting a recommendation to Council, not a decision.

Ms. Gallagher – That’s correct. They will have the final decision.

Commissioner Brunelle – I read Mr. Shoemaker’s letter and Mr. Frandon’s letter. Take me though, on his letter on the second page their presentation of 40-1415. It’s the second bullet. What I’m seeing here is they highlighted stuff that you didn’t put in your letter and they didn’t highlight what reads to me like a face card if anything, a trump card. On the bottom of page of your letter regarding quote: “In planning for the location of rights-of-way the Highway District shall comply with all appropriate provisions of Chapter 65, Title 67.” I’m just wondering if you could break that down a little for me where you think they are coming from and what you think of it.

Mr. Shoemaker – I did take great interest and I appreciate your attention to that that Mr. Frandon quotes the very same statute that I quote. And I certainly did highlight the piece that I thought he
omitted intentionally or otherwise. I think it is interesting. Looking at the law, if we could turn the time back to respond to your question, the Legislature perhaps could have been a little more precise, but it is interesting that they carved out an exception in talking about the mandate that local … government, including special use districts, should comply with the governing boards’ edicts. They carved out an exception for the Idaho Department of Transportation with regard to roads of “statewide importance.” I think that exception carved out the negative pregnant as some people call it, the fact that they didn’t have an exception for local roads. The Ada County Highway District tells me that the Legislature very clearly saw you all, the City, as the alpha mega or the person in charge who has to make the final decision. Yes, the statute talks about coordination with the local highway district. No, we wouldn’t expect the city within the municipal boundaries of the counties outside that municipal boundary to not coordinate or consult with the highway district. But, somebody has to say yea or nay and I think if you think about the differences between the city on one hand and the special use district like the highway district on the other, you all, the city is in charge of and has to be considerate of zoos, libraries and where they are located. It listens to school districts. It certainly is concerned about neighborhoods and not to criticize the highway district, the highway district’s charter doesn’t compel them to do that. One of the things it doesn’t compel them to do in measuring transportation needs and deciding where to allocate dollars is whether or not we want mass transit. I know some people make fun of those who suggest mass transit because we isn’t Portland yet. But I think we need to look ahead and think about that day when perhaps light rail or at least alternative transportation, greater bus routes, make more sense. To me, this is a long answer, I hope an intuitive answer to explain why I think the Legislature setting aside the penmanship here that the statute, certainly the intent of the Legislature that I’m arguing has the support of logic to it. How could it be otherwise? You’d never have a highway district planning these larger issues. You would have a city or a county.

Commissioner Brunelle – I think I agree with you especially because the things they highlighted are merely functions of what the district would do, responsible for the planning and locations of rights-of-way taking into account the Comprehensive Plan. But in my view all that is trumped by the last sentence that basically says they have to comply with the appropriate provisions of Title 65-67.

Mr. Shoemaker – Just to confirm what you said, again the language that I put in italics in planning for the ACHD in planning for and determine the location of rights-of-way, the Highway District shall submit to the appropriate planning agency, that’s you, the proposed location, not the location ordained by the Highway District, but the location that it proposes to you. I think the Legislature is investing you with the authority to say well we don’t like it there, we don’t want 5 lanes, we want to keep 3.

Patrick Dobie (777 Hearthstone/Boise/83702) – I was asked by the Homeowners Association to prepare an analysis of the planning history of the Ustick Road project. You should have a copy of that in your packet together with documentation of all of the traffic projections, the dates and the quotes that we used in that analysis.
Ms. Gallagher – In discussing this letter that was for Ustick Road with the applicant, Sara Baker, I was told that this was not appropriate in our conversation, that it was part of this application so you do not have Mr. Dobie’s letter before you.

Commissioner Fadness – So we should be looking at the entire proposal, not just one part or one neighborhood.

Ms. Gallagher – That is correct. These amendments would apply city-side, not just to Ustick.

Mr. Dobie – Let me walk through that analysis.

Commissioner Fadness – As long as your testimony addresses the ordinance changes as a whole and we don’t get into a debate about one particular project.

Mr. Dobie – The reason I looked at this project was and the way that I presented it in my letter, this is a case study on why the city needs to adopt these amendments. In the case of Ustick Road the transportation planning that COMPASS has done over the years showed that the capacity of a 3-lane road on Ustick was more than adequate to accommodate the build-out of that neighborhood. It’s predominantly residential, there’s very little growth potential that exists in that area. A 3-lane road was more than enough to accommodate it. In the Transportation Plan the Ada County Highway District, together with COMPASS and ITD, had programmed a number of other projects, the 5-lane improvements on Chinden, a 7-lane widening project on a substantial portion of Fairview Avenue. Those were the projects that were in the plan and they were scheduled for construction. Subsequent to that planning effort, there was a plan done for the North Meridian area. As a result of the North Meridian Plan, there was a traffic volume that was projected that exceeded the projections of COMPASS. ACHD responded to that plan by changing the program and changing the schedule moving Ustick Road as a 5-lane up in the program. We don’t know what happened to Fairview Avenue, but it’s no longer in the 5-year work program. What this shows is that the traffic that’s being accommodated through the 5-lane widening of Ustick Avenue is coming from North Meridian. You could call it regional traffic, you could call it local traffic but it’s a matter of schematics. But the traffic is not being generated because of growth in the Ustick Neighborhood. The 5-lane project is being dictated because of external growth. With the current program that’s in place right now, if Ustick Road is widened to 5 lanes before Fairview Avenue is widened, then there’s going to be a tendency to pull traffic off of the parallel principle arterials onto what is a minor arterial. This condition happened when they constructed Eagle Road approximately 10 years ago. COMPASS was projecting 10,000 to 12,000 vehicles trips per day. The traffic immediately stabilized at 25,000 cars a day. On Curtis Road the same thing happened. When they completed the section of Curtis Road, the traffic volumes were considerably higher than they expected and it was because of the pull effect of a new roadway. The same thing is likely to happen on Ustick Avenue if Ustick is moved up in the schedule and Fairview Avenue is not completed first. I would like to object to the fact that the letter that I submitted was not given to this board. It makes my
presentation much more difficult and I didn’t have time to finish it as a result of having to deal with the history of it.

Commissioner Fadness – I apologize for that. We don’t have the report so I can’t address it right now.

John Gannon (President of the Depot Bench Neigh. Assoc./1104 Johnson St./Boise) – Our board and association has discussed the Ustick Road situation and authorized me to speak today. Neighbors are a foundation of a great city. A recent Statesman editorial has talked about planning for 500,000 people to move here. That’s a city the size of Sacramento. Fine, but those of us who live here, those of us who have worked to build this wonderful city should not have to bear the burden of having our neighborhoods and our quality of life destroyed by such rapid growth. We need to plan the community in a way that preserves our neighborhoods, in a way that preserves our urban forest, in a way that preserves our pathways and encourages pedestrians and bicycle traffic. A good example of a 5-lane road is Overland Road. Overland Road for approximately 20 years has been 5-lanes and the structures along Overland Road have not developed. It’s deteriorated. As you go up Vista and make a right turn at Vista and Overland there’s about 12 houses that had their front yards cut off at some point, probably 20 years ago. They are not kept up. They are dilapidated and nobody really wants that property. That’s the consequence of a 5-land road. You ask why is the Depot Bench here tonight? Because we’ve learned that Overland Road is being studied to expand to 7-lanes all the way up to Owyhee Street. We think that it’s good that the West Bench Neighborhood Association has brought forth their concerns with their proposals for restrictions on minor arterials. One thing that caught my eye, we have discussed sidewalks extensively. In the staff’s recommendations they are recommending detached sidewalks on these busy streets. That we believe is absolutely essential. We had about 40 people at a meeting in October. We discussed different kinds of sidewalks, pathways, etc. People don’t walk on Overland Road because of the fast traffic. We don’t walk on Capitol Blvd. The fast traffic detours you. It is not a pleasant experience to ride a bike down that sidewalk on Capitol Blvd. It’s not a pleasant experience to walk along there. We certainly supports anything that promotes detached sidewalks on these streets and hope that in every project that you have where you have even the 3-lane streets that bear a lot of traffic, that you will require detached sidewalks.

Jerry Peterson (2876 Hampton St./Boise/83704) – I bought my house in may of 1976 and I’m still there. During that time there’s been a lot of changes. Probably the most dramatic effect is that within 2 ½ miles of my house we have four of the five east/west traffic patterns. I used to go out and sit in front of my house and watch the sun go down. I haven’t done that for probably 5 years. I ran fans at night in my bedroom to drown out the traffic noise and we haven’t widened Ustick yet. But we punched Five Mile through and so we have traffic non-stop on Five Mile. Fairview is to the south of us and now we are talking about opening Ustick to 5 lanes. In addition to the noise, I just finished remodeling my house inside and out. It’s a 1,200 sq. ft. house, 4-bedroom, 2-bath and it was appraised at less than $140,000. When I got the realtors over there and asked them what was going on, they said there is a high turn-over in my
neighborhood, a high percentage of rentals. The only thing that’s changed is all of the traffic that’s come around there. My house hasn’t changed. My neighborhood hasn’t changed, but the quality of life is changing. My son was hit by a car this summer, he’s alright, in a section of newly widened, 3-lane with bike lanes and sidewalks and that didn’t protect him. He was not in the wrong. The problem is that when we widen places out we can’t see anymore. I can name half a dozen intersections where you have to drive completely through the crosswalk to be able to see the traffic coming from each direction. If we open this up, there is no doubt in my mind that we will become the thoroughfare for all of the new development that’s happening east of us. If anybody thinks that widening a road will solve something, all you need to do is go out and get involved in that slow moving parking lot that we call Eagle Road. I think I’m an asset to this community. Through Scouting and stuff I’ve contributed thousands of hours of community service and it’s unfortunate that my input on this issue is limited to 3 minutes.

Commissioner Fadness – At the beginning of this meeting I read what our ordinance requires for public hearing. What we do is allow staff 20 minutes, the ordinance will allow up to 30 minutes if staff goes over, then the applicant is allowed that amount of time. Neighborhood associations in the impact area of the proposed development can take as much time as the applicant and then we allow public testimony for 3 minutes. This is not a new policy. It’s been in place for a long time in the interest of keeping meetings going. My fellow commissioners can tell you that we’re sometimes here until 12:30, 1:00 in the morning. If anyone should understand that it should be former Councilwoman Baker. I’m sure she remembers many of those late meetings. Tonight we probably could go longer than 3 minutes on testimony, but if we allow exceptions here then we have to allow exceptions. Believe me, other groups read our minutes. They would come back at our next meeting and say if we let those folks go on for 5 or 6 minutes, they will also want that time. I know you are frustrated with the time limits, we are too, but there’s only so much we can handle in one meeting. There’s only so many issues that we can take so that the commissioners are alert and fair minded listening to all the parties who are impacted. I’m sorry that the 3 minute time limit offends you. If the City Council hears enough complaints, maybe we’ll rewrite the plan and go for longer time and longer meetings. But that’s the policy that I’m required to enforce and I again apologize that offends so many.

Terry Little (Representing ACHD/3775 Adam St./Garden City/83714) – We did submit a letter earlier today from our legal staff. I have another one from our Planning Department.

Commissioner Fadness – For the record we have received a letter from…

Mr. Little – This is actually signed by Jay Switzer, director, dated March 13th to the City of Boise, Mayor, Council, Planning & Zoning Commissioners. I’m the department head of the Traffic Department. In your packet is also the response to the initial amendments that were proposed. Our comments here are largely to the proposed modifications of your Planning Staff. The Ada County Highway District urges the Commission to reject the proposed amendments and recommendations of the Planning Staff which lack legal and practical justification. The proposals infringe on the authority of ACHD established by voters and the Idaho Legislature in
Chapter 40, Title 13 to plan and build local roads in all areas of Ada County. As a practical matter, adopting artificial limitations on the number of lanes on minor arterials will not prevent traffic in neighborhoods. To the contrary such limits would simply shift the traffic volume to other streets most likely nearby and parallel collector roads which are ill-equipped to handle large increases in volume. A better solution would be to design the arterial system to serve the traffic created by past, current and future land use patterns on the Boise Bench which have been almost uniformly auto dependent. Limiting minor arterials to 3 lanes works against future transit services, a fact confirmed by the work of the communities in motion which promotes more 5-lane facilities to allow transit to operate efficiently. ACHD urges the Commission to avoid taking unilateral and provocative actions regarding the road system. Voters established ACHD to plan and build local roads and the city is the entity controlling the land uses that create transportation needs. Our constituents have every right to expect that the City and ACHD work cooperatively to manage growth. The Blueprint for Good Growth, pending street typology, Blueprint Implementation Study and the Communities in Motion Long Range Transportation Plan are vehicles for us to accomplish that task. The straw man of Boise Avenue, Warm Springs, Collister, are not in plans. Ustick has been in plans for 45 years starting back with the old County Plan. It’s been in plans since I’ve been here in 15 years either in a preserve or build status. Well preserve eventually becomes built. That means the intent is to eventually build a 5-lane road. ACHD just asked the City what they thought of having 7 lanes on Overland. That is what the model said what was needed to get some input from the City, a 5-lane on 36th, a 7-lane on Fairview, to gain input and take that under consideration. I think that shows the planning is occurring and I would encourage you to reject the amendments as proposed.

Betty Brigante (3750 Rugby Dr./Boise/83704) – I’ve lived in my home for more than 30 years. I want to thank you for the time and effort you spend in public service. I am speaking in favor of the Comprehensive Plan amendments as originally proposed by the West Bench Neighborhood Association. I think these amendments will assist the City of Boise in exercising its proper role as the governmental entity in charge of urban planning within the city limits. The difficulty that the Mayor and the Boise City Council have had over the last year and a half in getting ACHD to stop the widening effort on Ustick Road indicates that Boise’s Comprehensive Plan needs to be strengthened in the areas of controlling the location and sizing of its streets and the explicit protection of its neighborhoods from being split by massive highways. I’ve always heard and believed that Boise is a great place to raise children and that Boise wants to protect its neighborhoods. Boise City has done urban planning focused on people, including children, public health and safety, neighborhood development and protection, community services such as parks, libraries and swimming pools, and public transportation. By contrast in spite of what they say, the Ada County Highway District has shown by its action to focus only on moving motorized vehicles as rapidly as possible even if it leads to the endangerment of children and the destruction of existing developed neighborhoods. Also, by not requiring those living farther from the City to make any trade-offs in terms of time or inconvenience, ACHD encourages sprawl, increases air pollution and works against the success of public transportation. ACHD does this while penalizing those who have made more thoughtful and positive choices by living within the City of Boise. Ustick Road and its surrounding neighborhoods are only the current
target. If the Comprehensive Plan is not strengthened, other streets, roads and neighborhoods will suffer the same treatment at ACHD’s whim. In well planned urban areas the Interstate system roads are the widest, then US Federal Highways are next major in importance and locations that connect. The state highways may be of similar size, but different in what they connect. All of them would be wider than a minor arterial. In the Boise metropolitan area the system is practically upside down. There will be no rectifying this if ACHD can convert roads with no oversight or adequate control from the governmental entity in charge of planning. According to the 1975 Local Land Use Planning Act, in incorporated areas that entity is the City Council. For the protection of the citizens and neighborhoods in Boise, I urge the Planning & Zoning Commission to recommend passage of both amendments as originally proposed by the West Bench Neighborhood Association. I felt when the staff produced all of these modifications that didn’t deal with our original intent and scope that it complicated this hearing and that it actually worked against our neighborhood. It was disrespectful to our neighborhood and to our neighborhood association, our neighbors’ rights to have their concerns heard.

Pam Sheldon (Representing CCDC/805 W. Idaho, Ste. 403/Boise) – We provided a letter to the Commission on this proposed amendment. We would like to note a couple of observations that pertain both to the applicant’s proposal and also to the staff’s proposal. In the Urban Renewal Plans for Downtown Boise we have a streetscape plan which identifies for each street how it will eventually be improved and it’s usually working within the existing street-right-of-way because in Downtown Boise the street system is very constrained by property lines and buildings so the possibility of streets being widened is very limited. But in that streetscape plan and also in the diagram that classifies the streets in downtown, there are a number of minor arterials. In our letter, dated March 6th, we listed those minor arterials which would exceed the width and the lane numbers that were in the applicant’s proposal. The main reason is that we have a number of streets with 3 lanes of travel lanes and 2 lanes of parking which makes them 5-lane streets, but 3 lanes of travel and they exceed that width. To limit minor arterials to 3 lanes would be quite different than the situation in downtown. In the proposal from the staff, page 15 of your report which is the section that relates to Objective 4, there’s a description of compatible land uses for minor arterials. In each case residential is referred to as buffered residential which is maybe appropriate in a more suburban setting in the larger Boise area, but in downtown we’re working towards an urban forum and so this would be contrary to our goals for the downtown. We have some concern about how those descriptions are written. Also if you look on page 17 where it states that mitigating residential areas from the impacts of 5-lane arterials under Objective 8, it’s not clear to us when it refers to 5 lane arterials whether it’s just counting traffic lanes or also with parking and whether or not these proposals would then come into play on downtown streets that are 5 lanes wide but not used with all 5 lanes for traffic. In both our letter and our supplemental memo that we gave you this evening, we just indicated that it would be helpful to recognize the street standards that are in place in the Urban Renewal Plans for downtown streets. They have been adopted by the City Council. They are part of the Comprehensive Plan by reference and that would mean they within the consistency between what the Comp Plan is now saying and how the downtown streets are treated, if there could be a reference to that fact in any amendments that might be done.
Constance Grieger (Interim President of the West Bench Neighborhood Assoc./3210 Mountain View Dr./Boise/83704) – I have 5 children with my husband. We don’t just live in the Boise West Bench Neighborhood. My children’s live encompasses all neighborhoods within the Boise City limits when they learn to drive. At this point I am asking that you take the recommendations of the West Bench Neighborhood Association into consideration for the Comprehensive Plan amendments and maybe do your best to see it in heart, despite the delivery, to recognize the fact that this is about neighborhoods, this is about children, this is about families and this is about my life. Some comments have been made in the past by ACHD this will just go away if they just stick with it and we will die down. There’s nothing that the Ada County Highway District can do that would make me back down for the love of my husband and my children and the quality of life that we now enjoy. I’m asking that you recommend that these Comprehensive amendments be taken into consideration and passed on to City Council. In light of the fact that I don’t know you do go to, I find myself here tonight.

Elizabeth Carter (7878 Ustick/Boise/83704) – I come here as part of the West Bench Neighborhood Association but I also represent other people that weren’t able to make it here tonight. I represent Dr. Jamison Spencer, Dr. Matunis, Dr. Cook, Dr. William Carter, Dr. Jason Carter, Scott Carter, I’m Dr. Elizabeth Carter, Dr. Calhoun, Kalwosick, Dr. Bruce, Dr. Danny Bruce, Dr. Ryier and Dr. Frickie. There’s many businesses along, you know we are light industrial, along Ustick, Delsie’s, Custom Cycles and we like to be part of the Ustick landscape because it is predominantly resident-owned area. That is what makes our businesses valuable is because of the small, quaint nature of the place. In your realm of city planning I just don’t understand why Boise is always is always, as mentioned by the Depot Bench Neighborhood man, why we have to function for all the needs of other cities, Kuna, Star, Eagle, Meridian, for people’s economy, for their transportation burdens. The pressures will always be there if Boise is the main economic drive and everyone lives in their subdivisions outside of the city as a sprawl landscape. You can never build roads widen enough to accommodate I guess L.A. would be the best example. There’s 8 and 10 lane highways and there are still traffic jams. The resistance and incentives will never be there for people to not use their cars unless it takes so long to get into the city that they have to use mass transit. People will not change their habits unless there’s disincentives in place. People won’t by hybrid cars or not drive their cars until gas is $3 a gallon. That’s why I propose in support of the amendment of not widening minor arterials past 3 lanes because it will never be widen enough so you just might as well make a bench mark and stop there. The Highway Department asserts that they are only in charge of getting people to and from their house, their jobs. That is true, but you cannot separate that from land planning. They have to be married into the land planning process and transportation issues affect land planning issues. When streets are widened it metamorphoses residents into commercial so I wish they would be more a part of the whole process instead of acting independently as they tend to do. I support the amendment as proposed by the West Bench Neighborhood Association and I hope that you do too.
Stephen Loop (President of the West Valley Neighborhood Assoc./9637 Kampton Dr./Boise/83704) – Our neighborhood is the other neighborhood that is most directly impacted by the current project, but also concerned about the precedent and the overall relationship between land use planning and transportation. You rules state that if you are a representative of a neighborhood association party to the action you have 20 minutes.

Commissioner Fadness – This is an ordinance that affects the entire city so the applicant, which in this case was the West Bench Neighborhood Association, was allowed 20 minutes. The City Staff is allowed an equal amount of time. The West Bench Neighborhood Association will be granted 5 minutes for rebuttal. All the other parties are allowed 3 minutes. This is city-wide. It impacts all neighborhoods. The only reason that West Bench Neighborhood Association has been given 20 minutes is because they are the applicant in this case.

Mr. Loop – My understand of the rules was that if it’s an action that affect a neighborhood and you are officially representing the neighborhood that you do have the additional time.

Commissioner Fadness – Then we would allow every neighborhood representative here 20 minutes. If that were the case we’d have to allow 38 neighborhood associations the 20 minutes.

Mr. Loop – There are only 3 here.

Commissioner Fadness – Legal is telling me that I am correct.

Mr. Loop – Aside from being the president of the neighborhood association I do have a masters degree in transportation systems planning and I spent 10 years on the City’s Planning & Zoning Commission doing the job that you are doing into the wee hours of the night. I was on the Commission during the time that most of the projects along Ustick Road were built. If anyone things that there was a plan in place 40 years ago that said Ustick Road was going to be 5 lanes wide, they obviously weren’t paying much attention during the period from 1980 to 1990 when all of these projects were built and the right-of-way was preserved for what was, at that time, the plans for the future road improvements. I can’t imagine that the Highway District would have spent that much money on curb-gutter and sidewalk and cross-sections. I will present to you copies of two letters that our neighborhood association has sent to the Highway District with copies to the City concerning our official position on this particular project. I do acknowledge that functional classifications, since I spent about 7 years as a state-wide expert on functional classification and advised all the cities in this State on how to do functional classification, that functional classification is tied to function and not specifically to volume. However, I do think also that we to note and the one difference I would have with the West Bench Neighborhood Association on the proposed language is that there should be reference made to residential minor arterials. I agree that minor arterials in the downtown core would not want to be limited to the same standards as a minor arterial through an existing built-up neighborhood. I will also note that Warm Springs Avenue and Boise Avenue are not red herrings because at the time I was on the board and we were looking at those issues, the City spent a lot of time and effort to create
Parkcenter Blvd. so that they could relieve traffic off of the historic minor arterials and protect those neighborhoods. They also prevented development in the foothills to protect Harrison Blvd. because it was a minor arterial that went through an existing neighborhood. Unfortunately no one seems to be concerned about taking action to control the amount of traffic demand that builds up along Ustick Road and they view it as a county-wide road. A minor arterial by definition is sub-regional and is not intended to be a bypass for Fairview from the Interstate to downtown. I would ask that, especially considering the Highway District’s lack of interest and even the watered down proposal of the City Staff, which I think did have some merit to it, I would not want to trust that their decisions in the future will really consider the impact of their decisions on existing neighborhoods. I think we do need to protect those.

Kara Deverall (8053 W. Innsbrook Ct./Boise/83704) – I propose that you consider the amendments that have been talked about here tonight. I’ve lived in that neighborhood. My parents moved there when I was a junior in high school and I’m a lot older than you are. They raised their 4 kids, I’ve raised my 4 kids in that neighborhood and have since moved three times but right in the neighborhood near Capitol High and Fairmont Junior High. What I see on Ustick Road is some good improvements. They’ve done that between Cole Road and Curtis and that seems to work for now. With some of the same things that we’ve proposed I would like to see exceptions to that for the downtown, to the amendments that they’ve said tonight for the downtown, but I would like to consider what that will do in an area that has been this way for many years and served at least 6 schools. At all times of day I am on Ustick Road at least 3 times a day. When I drive Chinden I try to imagine Chinden in my neighborhood and it will definitely impact my neighborhood in a negative manner. If we could do intersections with 5 lanes like they are at Cole for turning, it works. The busiest times of day are at 8 and 5 and they are busy no matter where you are in my neighborhood, in the cul-de-sacs, wherever you are. I would love it if we could at least consider a compromise so that we can move traffic and not have a 5 lane road. Since it’s only for 2 miles I think most of my neighbors, any neighbors I’ve talked to are so perplexed. They’ve given up. They feel like we don’t have a vote. We have not been heard as neighbors and most of them are incensed, but they are busy at their kids’ school, at concerts and doing good things in the neighborhood as I was with my kids. So I’m here representing a lot of people who are very concerned about it. Please listen.

Commissioner Fadness – I have a question of staff. We got into a little bit of this with Mr. Shoemaker in talking about the different statutes and how we interpret them. I’m intrigued by this notion that say if we were to adopt the proposals as the neighborhood association presented them. One of their chief arguments was look, it does mean that there won’t be 5-lane roads, it doesn’t mean that this is a one side fits all solution. That if ACHD wants to do something different they should have to come before the Council and justify it and make their case. My case is what authority would we have? As I understand it the Comprehensive Plan ACHD tries to follow as a guide, but they are vested with the authority for transportation planning so even if we were to adopt this, would we have the authority to say no, we don’t want 5 lanes on Ustick Road and come back with something else?
Ms. Gallagher – There is a definite disagreement between the City and ACHD in the applicable parts of the State statutes. Our take is that they do need to comply with the Comprehensive Plan. The rub in the situation that you just put forward is that if they weren’t going to comply they just come back to Council and ask for relieve on that. Well, that’s not really what a Comprehensive Plan is for. It is to guide and if we’re looking that there would be room for a different alternative, we would either factor that into this Comprehensive Plan amendment or one of the things that we’ve also realized is that we need a transportation chapter in the zoning ordinance to take these guiding principles and to make them more concrete to give more definite direction. You could start out with an amendment and then in a Zoning Ordinance we could give some specifics on alternatives on how you could deal with that. But, the idea here is that this would be the guiding principle for the arterials.

Commissioner Fadness – But a change to the Zoning Ordinance would give more meat to it.

Ms. Gallagher – That’s correct. In closing, I have 5 points that I’d like to go over. One, Mr. Shoemaker referred to the December 20th action by City Council that the motion made by Councilman Eberle. Staff has been directed to look at changes to the Comprehensive Plan regarding transportation issues such as these arterials. We’ve also been given a deadline of July to come forward with those so the information that staff hadn’t gone forward yet, I just wanted to make sure that you understood what perimeters we were given by City Council to move forward on these changes. Secondly I’d like to expand a little bit that (1) we have these two amendments before us that would go on a city-wide basis. It was also brought up that 36th Street has a special designation. As the Commission’s aware, we do have planning areas breaking down the city. This is a specific policy that’s in the Northwest Planning Area for 36th Street and it gives some very specific language on what they expect to have happen should that street be widened. A similar approach to this can be taken on Ustick. There are other alternatives than what the applicant has brought before you and what the staff has brought before you. If we are talking about some specific streets be it Ustick, be it Collister, be it Warm Springs or Boise Avenue, that this is another tool that could be used to say very specifically, either to do an overlay in a neighborhood association on certain streets that they deem to be sensitive, to bring that through. We can talk in more specifics than a blanket, across-the-board change to what happens with minor arterials. Next I’d like to address Mr. Loop’s comment that we just specify that this only applies to residential minor arterials. Staff did consider that when we were going through these changes. Part of our concern is what would then deem a residential arterial. We already have a conflict right now with how ACHD is looking at the land uses along Ustick Road, that if it’s an office or a home occupation, they all just put it in a commercial category. I think even rentals they put in a commercial category so they are looking at maybe us having a 50-50 split of residential and commercial uses whereas if we looked at it we would break those down into some different uses. I didn’t want to get to the point of saying a residential arterial is a certain percentage of residential on a street because actually some of these concerns we have with pedestrians getting across a street apply if we’ve got office along the whole street or retail or residential or some mix thereof. Staff’s proposal really breaks this down to say minor arterials in general we need to get people across. Then we go on further to say any street that goes to 5
lanes, you do need to look at mitigation for the noise impacts and then we’re looking at the berming. Staff did analyze that and that is the proposal that we’ve put before you taking that into consideration. There’s two clarifications that I’d like to make to what staff has proposed in their revisions. One I stated, but would like to clarify, and that’s under Objective 51 that I was missing the word “not.” That should state: “Set speed limits that do not have adverse affects on pedestrians, bicyclists and vehicles crossing arterial corridors.” The next one I’d like to propose is dealing with the CCDC comments. I’d like to add that I thought it would be a policy but now I realize that we’d have to put it both under Objective 7 and 8 because both of those create some conflicts for them. Where I’m heading on that is recognize that adoptive plans and design standards for downtown streets. We’ve already got them on the books. They are already adopted by reference so I know that would apply under both Objective 7 and Objective 8. That would be my solution to dealing with CCDC’s comments.

Commissioner Van Ocker – Can you briefly summarize exactly what direction the City Council gave you as far as revisiting the Comp Plan Transportation. Did they give you examples of areas in the city or was it just a “this sounds great, let’s go do it?”

Ms. Gallagher – There were 4 points to this. One was that we look at the TIP process and come up with a better process our recommendations for the TIP. Another is to look at what a city-wide street department would look like. The next was to look at the Comprehensive Plan and to address street typologies, but that we needed to look at the Comprehensive Plan and rewrite the Transportation Chapter. The 4th is that we develop street typologies.

Patrick Dobie (Applicant’s Representative) – I’d like to submit for the record a copy of the letter that I thought was going to be in your packet.

Commissioner Fadness – We have accepted into the record a 3-page letter from Patrick Dobie.

Mr. Dobie – Here’s the problem in a nutshell. When this Commission reviews site plans and later on the Design Review Committee looks at them, they spend a lot of time and you get into the details of the landscape treatment and how the site is being utilized. You require applicants to do fairly detailed and exhaustive studies estimating what the impacts of that project will be on the neighborhood an on the community. ACHD, as it currently stands, is exempt from all that. They go through with a project like Ustick, widen the road and they tear out all of the landscaping that was required as part of those previously approved site plans and in most cases they put non back in. That’s a problem. The widening of Ustick Road is likely to put hundreds of houses within an unhealthy noise environment. By increasing the traffic carrying capacity of the road from 3 lanes to 5 lanes they are increasing it from 17,000 cars a day to close to 35,000 cars per day. The noise from that traffic volume is going to extend several rows of houses deep back into the neighborhood at what’s been identified as unhealthy noise levels. There was no analysis done of that. The proposed amendment, it says that when you widen from a 3-lane to a 5-lane, either you don’t do it or if there is some compelling reason to do it, then you process an application through the city. You comply with the policies. You do the analysis. You evaluate
the impacts and you come up with a plan to mitigate the impacts of your action. That’s what’s being requested of you tonight, to set in motion a change to the planning process that requires the Highway District, much the same as the school district or the power companies, or the hospitals, to submit plans when they create industrial or institutional type developments, require ACHD to comply with your plan, bring them into the process through an amendment that requires that either they reduce the scope of the project or they come in and demonstrate the compelling reasons to build the project and how they intend to mitigate it.

Fred Shoemaker (Applicant’s Representative) – I would like to propose some amendments to our amendment that I think will resolve the CCDC’s stated concerns. I heard Ms. Sheldon we need to carve out an exception for the downtown core and I propose looking at page 6, which is where our first text amendment, is to add to the very beginning where it says: “No street classified, etc.” to add: “except in the downtown urban core or in the CCDC’s designated urban renewal areas, no street classified, …” Then I also heard Ms. Sheldon say they wanted to make sure we’re talking about 3 travel lanes so if I went 2 lines down on our amendment where it says: “No street classified as a minor arterial in the City of Boise shall be more than 3 travel lanes wide.” Then adding at the end of that sentence, I heard Ms. Sheldon say they wouldn’t want it applied retroactively and that isn’t our intent. So if we add the following phrase at the end of both sentences: “unless already exceeding those dimensions.” In other words, if we have a minor arterial that’s already 3 lanes, there wouldn’t be any way we’d want to restrict it to 3 lanes. Likewise, the last sentence would read: “The width of the 3 lanes shall not exceed 42 ft. from curb-to-curb or 50 ft. from curb-to-curb if a bike lane is included in the streetscape unless it already exceeds those dimensions.”

COMMISSIONER WILSON – I WILL MOVE TO APPROVE CAR06-00002 WITH STAFF’S MODIFICATIONS.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Wilson – I think that ACHD, in their letter, conclusively proved that in fact Ms. Gallagher is not up for any bonuses or promotions within ACHD as Ms. Baker asserted. But what I find is a weakness in ACHD’s letter in that it says that transits not going to work because the density isn’t available. In my mind the only way that we could encourage density is if we stop widening roads and force people out of their cars. We need to at some point say that neighborhoods are important and that we are going to limit the way that we’ve been expanding roads. I think that Ms. Gallagher did an excellent job of taking what were very general statements and working them into the policies and goals of the Comprehensive Plan to make them workable. I also really embraced, under Objective 4, item #10, working with ACHD and ITD to define what these principle minor arterials are and I think part of that definition needs to include not just the number of vehicle trips per day or how many people want to drive on that road, but what the existing uses are along those roads. ALSO IN MY MOTION I NEED TO INCLUDE THAT UNDER OBJECTIVE 5, ITEM #1, TO REWRITE IT SO THAT IT SAYS
TO SET SPEED LIMITS THAT DO NOT HAVE ADVERSE AFFECTS ON PEDESTRIANS AND BICYCLES.

Commissioner Brunelle – With respect to the applicant’s proposal that they submitted to us originally, after hearing the testimony tonight and I had read through the information previous to the meeting, but I’ve kind of formulated an opinion that what they proposed and the staff proposed are not actually all that mutually exclusive. I base that my take on it is there’s a clear short term issue here with projects proposed for this city that a clear, unambiguous succinct provision, like what was presented from the West Bench Neighborhood Association, ought to be included. Karen did a great analysis showing that there’s a lot of issues that would come up over time as far as it failing to meet the criteria and findings of a Comprehensive Plan amendment. The one thing I was sitting here thinking about was maybe what we need, I’d be entirely comfortable taking the proposed language from the applicant and suggesting that it ought to be adopted as a city ordinance. Then it doesn’t have to meet these provisions under 11-08-06, the criteria and findings. They could be supported with the foundation of the Comprehensive Plan language that Karen drafted. Short of that, if that’s maybe pushing envelope a little too much, I think that it could be included in the Comprehensive Plan and potentially have some sort of a sunset clause so after 24 or 36 months then this question about a 42 ft. wide road curb-to-curb goes away and then the arguments that Karen brought up go away with that. I look at this as kind of a short term, long term thing. The short term thing is to address the issues as they have been articulated and brought forward by the neighborhood association and the longer term details that were put together in the proposed amendment from Karen I think are better to stand the test of time because they do get into the planning relationship and a lot of the particular issues that we have to deal with, the Highway District, COMPASS and all the other parties.

Commissioner Ellsworth – I’m going to support the motion since this is a recommendation to the City Council. I don’t think the City’s plan goes far enough, I don’t think it has enough teeth in it. I understand that the City’s plan is being worked on and it’s probably not going to be finished until the deadline in July. There’s a lot of work to be done on this as it’s a pretty big issue and is obviously an important issue to the neighborhoods and to the City. I think this neighborhood plan goes too far. It’s too restrictive. It does have some inconsistencies. The CCDC problem is just one. I think I would agree with Commissioner Brunelle that there not mutually exclusive. The plans could be merged and a better plan could come out of the two different proposals that are on the table tonight. We definitely need to add the comments from the CCDC so that we don’t a problem with the downtown area. I would encourage ACHD to work with the City to come up with something that’s meaningful. I don’t think ACHD is necessarily the culprit or the bad entity here. They try and do good planning, they just don’t look at things quite the way that the City does. I do agree with the letter from the neighborhood association from Fred Shoemaker that somebody needs to be in charge and I see the City being in charge, not ACHD. I would hate to see some of these beautiful 2-lane and 3-lane streets turned into 5-lane streets without very strong comment from the City and from the neighborhoods. I like the idea that anything that’s every going to be turned from a 2-lane or 3-lane into a 5-lane would have to go through a public hearing process so we can really get a feel for what the neighborhoods say
about it and bring in all the issues because there are other issues that impact these decisions that are outside the neighborhoods and I think that’s where COMPASS and Blueprint for Good Growth need to be taken into account. Hopefully we’ll see the Blueprint for Good Growth sometime this summer and I don’t know what COMPASS is doing but they are involved in this too so it’s more of a regional thing. I would like to commend the neighborhood association for the hard work that they’ve done. They’ve kind of taken some of the things that we at the City should have done and brought them to the forefront.

Commissioner Van Ocker – The only thing that we can do at this moment, I think our hand is really being pushed. These issues just didn’t happen last week. This stuff was going on for the 16 years Ms. Baker was serving on the City Council. I think the only thing we can do is send this onto the City Council and let them hash this out also. There is a tremendous amount of work that needs to be done. These are not problems that have just sprung up overnight. I think there is a lot of discussions that need to take place and unfortunately I wish we could do it, but we can’t. We can start the process. That’s what we are being forced to do and I think we should do it. I think there are issues. I’ve been on this Commission for 10 years. I hate being put into a situation where I feel like we’re being told we’ve been screwing up all these years. The reality is that we don’t get to make these decisions so if this is the arena we’re going to get into and we want to start pushing these issues, then let’s do it and get it to the City Council. Let’s get all the political people involved. We’re not elected officials. We’re appointed. Obviously the Mayor and City Council have already been talking about this. They’ve got issues that they are reacting to because they are the elected officials so let’s give it to them and have them deal with it. Let’s have ACHD deal with it. This is the first time we’ve seen a representative from ACHD in here forever and a year. I appreciate the comments. Let’s try and figure out a way to rewrite our Comprehensive Plan, but we can’t do that tonight. We are in an impossible situation so I say let’s send it onto the people who started it and I guarantee it will come back to us. Let’s start the process and I hope it’s on time. This is all coming up because of an issue with Ustick and I think it’s unfortunate. It’s not our fault. I don’t know if it’s their fault. Boise’s a great place to live. I think that’s part of the problem. Instead of everyone being adversarial with each other and if we have to force the issue by getting it into City Council’s hand, then I guess that’s what we’ve got to do. I hate to be sounding ornery and frustrated, but I think we’re being put into a very, very difficult situation that’s coming at us because of a problem in one neighborhood. I think it could happen in other neighborhoods, but I’m not buying this whole idea of trying to fix this whole city with this one Comp Plan amendment. That’s not what this is about. It’s about Ustick Road and I think we’ve got some issues that we need to deal with there.

Commissioner McLean – I’m going to support this. I was really excited to see the proposals that staff brought forward for the Comp Plan because there were many things that I think we need to have in our Comp Plan. So if this became the avenue and we pickup and we address some more issues then that’s a good thing. In the short time that I’ve been on this Commission I’m shocked at how many times already in the 6 months we’ve been dealing with these things that almost emergency issues because we didn’t plan ahead of time to address things that are happening in this community so we’re seeing these things come in at the last minute or when it’s almost too
late and it’s extremely frustrating. I feel like we can’t do anything to deal with the planning that I think all of us would like to be a part of. I would also like to make it clear to Council that it’s time that as a Commission, we are given the opportunity to do some of the planning that I think many of us want to do to address this and some of the other things that have come before us in a very last minute nature from the City.

Mary Watson (Legal) – I’d like to direct the Commission’s attention to page 5 of the staff report that sets for the criteria and findings that you need to make tonight with regard to these amendments. Ms. Gallagher mentioned this earlier that these are necessary no matter which way you go in choosing whichever language you’d like. I would like to urge you to state some things on the record that speak directly to the City Code, Section 11-8-6.02, the criteria and findings.

COMMISSIONER WILSON – WITH REGARDS TO SECTION 11-8-6.2, CRITERIA AND FINDINGS FOR THE COMPREHENSIVE PLAN AMENDMENT, I THINK THAT STAFF DID A VERY THOROUGH JOB OF ANALYZING WHERE THEIR LANGUAGE FITS WITHIN THESE AND WHY IT WORKS WITHIN THESE: “REQUIRED FOR PUBLIC CONVENIENCE OR PUBLIC NECESSITY OR FOR THE GENERAL WELFARE OF THE COMMUNITY.” TO ME THIS IS WHERE WE ARE BALANCING THE NEED FOR THINGS LIKE BUFFERS AND TREES AND DETACHED SIDEWALKS WITH THE NEED FOR PEOPLE TO GET FROM POINT A TO POINT B. FOR CRITERIA B, IT IS NECESSARY BECAUSE AS COMMISSIONER MCLEAN POINTED OUT WE ACT IN A REACTIVE MODE WHENEVER THESE KINDS OF ISSUES COME UP. UNFORTUNATELY I THINK FOR THIS ONE IT MIGHT BE EVEN A LITTLE LATE. OBVIOUSLY WE DO HAVE A DEFICIENCY THAT EXISTS IN THE PLAN THAT WE DO NEED TO ADDRESS. CRITERIA C, THE AMENDMENT IS IN COMPLIANCE WITH AND WILL FURTHER THE GOALS, OBJECTIVES AND POLICIES OF THE PLAN. I DO BELIEVE THESE AMENDMENTS DO SERVE TO BALANCE WHAT NEEDS TO HAPPEN TO PROTECT THE NEIGHBORHOODS WITH GETTING FOLKS FROM POINT A TO POINT B. ITEM D, THAT THE AMENDMENT WILL NOT CREATE INCONSISTENCIES BETWEEN THE GOALS, OBJECTIVES AND POLICIES. I THINK UNDER THE MOTION FOR THE NEXT ONE THAT GETS IN OBJECTIVES 7 AND 8, THAT WE WILL ADDRESS THE INCONSISTENCIES THAT ARRIVED THIS EVENING WITH THE CCDC. FOR CRITERIA E, THE AMENDMENT DOES NOT PLACE AN UNDUE BURDEN ON TRANSPORTATION OR PUBLIC FACILITIES AND DOES NOT ADVERSELY IMPACT THE DELIVERY OF SERVICES. I THINK THAT ACTUALLY THIS AMENDMENT IS TO REDUCE THE BURDEN ON THE TRANSPORTATION FACILITIES AND TO MAKE SURE THAT WE’RE NOT ADVERSELY IMPACTING THE DELIVERY OF SERVICES BY MAKING SURE THAT THE ARTERIALS ARE DOING WHAT THEY ARE INTENDED TO DO AND THAT GROWTH HAPPENS ON THE APPROPRIATE ARTERIALS AND NOT JUST ANY ARTERIALS.

Commissioner Fadness – I want to commend the neighborhood association for bringing these proposals forward. I think they’ve lead to some constructive proposed changes in our
Comprehensive Plan. While I share Commissioner Van Ocker’s frustrations about the limitations that we have, I do believe that the neighborhood association felt like they had to start somewhere. We are the recommending body to the City Council even though we don’t have the final say. I’m not sure what ACHD’s public hearing process is and how much input is given. It wouldn’t be fare for me to say they didn’t listen to the neighborhood or they did on this certain project, but I think it’s indicative of the kind of frustrations we’re going to feel in the near future as this city continues to grow and also the towns around the city. While the neighborhood association may not have gotten what that wanted, I do think that by coming here they’ve perhaps sparked some discussion that’s necessary and it’s led to some constructive proposals from the City’s Planning Staff.

COMMISSIONER WILSON – I think that CAR06-00002 actually pertains to all of Chapter 6 which would include Objectives 7 and 8, and then item #7 just pertains to Chapter 7. I NEED TO AMEND MY MOTION THAT UNDER OBJECTIVE 7 AND UNDER OBJECTIVE 8 AND ITEM #3 IS ADDED TO RECOGNIZE ADOPTED PLANS FOR DOWNTOWN AREAS AND OTHER EXISTING PLANS THAT HAVE ALREADY BEEN ADOPTED BY THE CITY.

COMMISSIONER VAN OCKER – CONCURRED WITH THE AMENDMENT.

MOTION TO APPROVE WITH AMENDMENTS CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO DENY CAR06-00003 WHICH WOULD MAKE CHANGES TO CHAPTER 7 OF THE COMPREHENSIVE PLAN, EXISTING NEIGHBORHOODS SHOULD NOT BE SPLIT BY 5 LANE ROADS.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Wilson – I’m making the motion to deny this one because I believe that all of staff’s changes were within Chapter 6, which was within the first motion and that we’re not making any changes to Chapter 7.

Commissioner Brunelle – I’m going to support the motion. I did have some comments earlier where I was talking about the proposals from the applicant being more short term in nature. I do agree with Commissioner Van Ocker’s point that we’re part of the supply chain here of getting the policy forwarded to the Council and I’m comfortable supporting the motion, especially given the chance to at least discuss our reactions to the testimony tonight. I really feel when this does get to the Council in April, you need to be there and you need to make your points again for what you desired through the amendments that are in your application. I think particular testimony from Mr. Peterson or Ms. Carter and Ms. Grieger is pretty compelling. It’s specific antidotes about what’s going on in your neighborhood. I think that Mr. Shoemaker’s letter is particularly compelling as well because it really does spell out an argument that’s 180 degrees different than the Highway District as it pertains to that section of the Idaho Code. I’m sitting here thinking
tonight maybe it is time for the City Council to look at this proposal from the neighborhood and look at what the Planning Staff has come up with and come up with whatever decision suits them best as far as Comprehensive Plan changes, perhaps an ordinance adoption to the City Code. Then let’s go talk to the Highway District and to a District Court Judge and see what the meaning of Title 40, Section 14-15, Paragraph 4 is.

Commissioner Ellsworth – I think it would be fantastic if ACHD would hold off on taking bids or doing anything further on Ustick Road until this issue is solved. I just think it would be a terrible injustice for the ACHD folks to move forward before this thing gets figured out.

MOTION TO DENY CARRIED UNANIMOUSLY.

**SUB06-00003/Steely Meadow Subdivision**

Location: On the south side of Gillis, west of Gary Lane
63-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Paul Miller (Applicant/7455 Gillis Rd./Boise) – Doesn’t see the point of requiring a grassy swale as the proposed subdivision is flat. Feels the runoff will just drain into the ground as it’s always done. Proposed to delete the requirement of a homeowners’ association and put all the requirements for maintenance in the CC&R’s.

Scott Spjute – Condition of approval #10 is a standard condition of approval was imposed by Public Works Engineering Staff to deal with storm water. If the applicant can work it out with Public Works Staff such that condition #10 is not needed, staff would be agreeable to that. Staff recommended it remain as is. Because Gillis Street is a collector, a requirement of the Subdivision Ordinance is that a landscape buffer is required adjacent to the street on the front of the lots fronting on Gillis. Paragraph C is to guarantee the maintenance of the buffer.

COMMISSION WILSON MOVED TO APPROVE SUB06-00003 WITH A CHANGE TO CONDITION #6C TO READ: THE LANDSCAPE BUFFER SHALL BE MAINTAINED BY THE INDIVIDUAL PROPERTY OWNERS AS A CONDITION OF THE CC&R’S. SAID EASEMENT FOR THE BUFFER MAY NOT BE DISOLVED WITHOUT EXPRESS CONSENT OF BOISE CITY.

COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

________________________________________
Gene Fadness, Chairman
Planning & Zoning Commission
Planning & Zoning Commission

Hearing Minutes of
April 10, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Andy Brunelle, Doug Russell, Amber Van Ocker, & Anthony Shallat.

Staff Members Present
Cody Riddle, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CAR06-00004/Doug Tamura – COMMISSIONER WILSON MOVED TO DEFER TO MAY 1, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00017 & CVA06-00006/Patricia Hewitt – COMMISSIONER WILSON MOVED TO DEFER TO MAY 1, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00021/Milfair, LLC.
Location: 8013 W. Fairview Ave.
CONSTRUCT A DRIVE-THRU ASSOCIATED WITH A 6,000 SQ. FT. MULTI-TENANT COMMERCIAL BUILDING IN A C-2D ZONE.

SUB06-00011/Powell Estates Subdivision
Location: On the south side of Boise Ave., north and west of Law Ave.
3-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00023/Andrea Condominiums
Location: On the northwest corner of 11th and Main streets
31-UNIT, COMMERCIAL & CONDOMINUM SUBDIVISION
SUB06-00024/Jamie’s Condominiums
Location: On the south side of Warm Springs Ave., east of Avenue C
13-UNIT CONDOMINIUM SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER WILSON MOVED FOR APPROVAL OF THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CUP05-00147 & CVA05-00045/Jan Higginbotham
Location: 1217 S. Roosevelt St.
REQUEST RECONSIDERATION OF THE P&Z’S DECISION OF DENIAL.

COMMISSIONER RUSSELL MOVED TO DENY REQUEST TO RECONSIDER. COMMISSIONER WILSON SECONDED.

Commissioner Brunelle – I read through the letter from the applicant and I think there are some interesting points raised in the letter, but I don’t think that the type of arguments raised meet the requirements that would merit a reconsideration, that is new relevant information not brought up previously at the hearing. My opinion was that it was more just basically a different interpretation of what we had been presented. I can support this motion because what we are looking for here is if there is new information that we didn’t know about. I didn’t see anything new.

Commissioner Fadness – I will point out that the applicant has submitted an appeal and the Boise City Council will decide if an error was made in the initial decision.

MOTION TO DENY RECONSIDERATION CARRIED UNANIMOUSLY.

CUP05-00152 & CVA05-00042/Quasar Development
FINDINGS

COMMISSIONER WILSON MOVED TO APPROVE THE FINDINGS FOR THE QUASAR DEVELOPMENT. COMMISSIONER ELLSWORTH SECONDED THE MOTION.
Commissioner Wilson – I think that staff adequately captured the issues that we had with the development and did a good job in presenting findings that support what we had said in the meeting.

MOTION TO APPROVE FINDINGS CARRIED WITH COMMISSIONER RUSSELL ABSTAINING DUE TO A CONFLICT OF INTEREST.

CUP04-00001/Mod #2/Tropic North, LLC.
Location: 2761-2799 E. Boise Avenue
MODIFY CUP TO REPLACE AN EXISTING SINGLE-FAMILY RESIDENCE WITH A NEW STRUCTURE, MODIFY THE PARKING & COMMON AREAS, REVISE BUILDING ELEVATIONS AND ADD 2ND- STORY LIVING SPACE TO SPECIFIC UNITS IN AN R-1C ZONE.

Cody Riddle presented the staff report with a recommendation of approval.

Ken Litsinger (Applicant/6755 Hill Rd./Boise) – Realizes there is a concern about the 2nd story on the east portion of the property. The new design is 4.5 inches more in elevation than the original design that was approved. With the new design, has spent a lot of time trying to incorporate that 2nd floor area into what was just a large roof and feels the exterior appearance has been greatly improved with the new designs. Feels the original design was not appropriate for the area.

Nancy Riley (2698 E. Bergeson/Boise/83706) – The new design is much more aesthetically pleasing than the old one, but is concerned about the inclusion of a 2nd story and the buildings only being 15 ft. from her property and privacy issues. Does not feel landscaping will mitigate any of that. Does not have a problem with the addition of a 2nd story if the windows are removed from the upper story.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP04-2 (Mod #1) ADDING A CONDITION OF APPOVAL DEALING WITH THE 2ND STORY WINDOWS, ALTHOUGH IT GOES AGAINST MY DESIGN FEELINGS BECAUSE I THINK THAT IT DOES LOOK NICE THE WAY IT IS. LET’S MAKE THOSE 2ND STORY WINDOWS TO BE THE MINIMUM REQUIRED AMOUNTS FOR THE BUILDING CODE FOR EGRESS AND HAVE THAT DESIGN SUBMITTED BACK TO OUR STAFF FOR APPROVAL. ALL THE OTHER CONDITIONS ARE TO REMAIN INTACT.

COMMISSIONER RUSSEL SUGGESTED MODIFYING THE CONDITION THAT INSTEAD OF REDUCING THE WINDOW SIZE, REQUIRE FROSTED GLASS AND THE CONDITION APPLY TO ONLY THOSE WINDOWS ON THE SOUTH-FACING 2ND STORY.

COMMISSIONER VAN OCKER – CONCURRED.
COMMISSIONER ELLSWORTH SECONDED AND THE MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

**CUP06-00018/Sonmar E.S. of Boise, LLC.**
Location: 700-710 N. Cole Road
CONSTRUCT A 3-STORY, 43,671 SQ. FT. HOTEL IN AN L-OD ZONE.

Cody Riddle presented the staff report with a recommendation of approval.

Steve Elkins (Applicant’s Architect/1000 NE 33rd Pl./Bellevue, WA.) – Concurred with the staff report. Design review issues are being addressed and DR hearing will be on Wednesday.

Chris Fisher (718 N. Cole Rd./Boise/83704) – Concerned about the clear vision triangle and associated traffic. Patients exiting property at 718 N. Cole have a blind spot. Landscaping put along Cole Road would also block the traffic view. Plans also show parking spaces on Cole Road which would also block the vision of patients exiting his sight. An access point from his property to the adjoining property (hotel) should be looked at. A fence should be provided in the back between his property and the hotel.

Kammy Fisher (718 N. Cole Rd./Boise) – Requested fence to keep people out of the existing irrigation ditch and keep people off of her property. Concerned about clear vision triangle.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-18 WITH A CONDITION OF APPROVAL ADDED TO READ THAT A FENCE BE CONSTRUCT ALONG THAT PORTION OF THE PROPERTY PERPENDICULAR TO COLE ROAD AND THAT THE FENCE TAPER DOWN TO 3 FT. TOWARDS COLE ROAD SO THAT IT DOES NOT CREATE A VISION OBSTRUCTION.

COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

**CFH05-00047/Colin Connell & Arrow Villa, LLC.**
Location: 5251 N. Arrow Crest Way
HILLSIDE & FOOTHILL DEVELOPMENT PERMIT FOR GRADING ASSOCIATED WITH A 6-LOT SUBDIVISION IN AN R-1A ZONE.

**CFH05-00048/Colin Connell & Arrow Villa, LLC.**
Location: 5251 N. Arrow Crest Way
FLOODPLAIN REVIEW FOR A 6-LOT SUBDIVISION IN AN R-1A ZONE.

**SUB06-00013/Arrowhead Canyon Subdivision #2**
Location: North & east of N. 36th St. off Bison Drive
6-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Scott Spjute presented the staff report with a recommendation of approval.

Colin Connell (Applicant/2291 Amy Ave./Boise) – Concurred with the staff report.

Tom Ganley (2042 W. Falcon/Boise/President of the Arrowhead Canyon Homeowner’s Assoc.) – Subdivision covenants require prior approval for any lot splits; requested denial of this application because the applicant has not received that approval.

Commissioner Fadness stated that subdivision covenants are not enforceable by the City.

COMMISSIONER WILSON MOVED TO APPROVE CFH05-47. COMMISSIONER VAN OCKER SECONDED. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO APPROVE CFH05-48. COMMISSIONER VAN OCKER SECONDED. MOTION CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED FOR APPROVAL OF SUB06-13. COMMISSIONER VAN OCKER SECONDED. MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of March 13, 2006 – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of March 6, 2006 – COMMISSIONER ELLSWORTH MOVED FOR APPROVAL. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of February 13, 2006 – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

________________________________
Gene Fadness, Chairman
Planning & Zoning Commission
Planning & Zoning Commission

Hearing Minutes of
April 17, 2006

Commission Members Present
Brandy Wilson/Chairman, Brian Ellsworth, Doug Cooper, Andy Brunelle, Amber Van Ocker, Lauren McLean & Anthony Shallat.

Staff Members Present
Carl Miller, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Deferrals

CAR06-00014/Therrin D. Robertson
SUB06-00020/Therrin Condominiums
COMMISSIONER MCLEAN MOVED TO DEFER TO JUNE 5, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00019/The Real Specialist, Inc.
Location: 7111 W. Everett St., 1619 & 1621 N. El Dorado St.
CONSTRUCT A PUD OF 12 UNITS ON .95 ACRES IN AN R-2 ZONE.

CUP06-00022/Hale Development
Location: 1400 N. McKinney & 1325 N. Allumbaugh St.
CONSTRUCT A PUD OF 29 UNITS ON 1.98 ACRES IN AN R-2D ZONE WITH A PARKING REDUCTION.

SUB06-00017/Winston Subdivision
Location: On the west side of McKinney south of Fairview Ave.
29-LOT RESIDENTIAL TOWNHOUSE SUBDIVISION.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF THE CONSENT AGENDA BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS WITH A MODIFICATION TO CUP06-19, CONDITION #4 WHICH DEALS WITH THE MINIMUM
REQUIREMENT OF PRIVATE OUTDOOR SPACE. CUP06-22, ADD CONDITION 1A TO REQUIRE THE APPLICANT CONSTRUCT A 6 FT. HIGH WOODEN FENCE ALONG THE SOUTH PROPERTY LINE.

COMMISSIONER COOPER SECONDED AND THEN ABSTAINED FROM CUP06-22 AND SUB06-17 DUE TO A CONFLICT OF INTEREST.

Regular Agenda

CUP04-00101 & SUB05-00078/Lowell & Veralyn Smith
REQUEST FOR A 1-YEAR TIME EXTENSION

COMMISSIONER VAN OCKER MOVED TO APPROVE THE 1-YEAR TIME EXTENSION. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00011/John Butts
Location: 1219 N. Shamrock St.
REZONE .27 ACRES FROM A-1 TO R-1B.

Applicant not present.

COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-11 BASED ON FINDINGS OF FACT AS STATED IN THE STAFF REPORT.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Van Ocker – When this parcel was brought into the city limits it was just given a base A-1 land designation which is typical. Now they are requesting a rezone to R-1B which is compatible with all the existing zoning districts in this area.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CAR06-00015/Daniel Gibson & The Land Group, Inc.
Location: 4195 N. Eagle Road
REZONE 3.44 ACRES FROM

SUB06-00018/Turf Subdivision
Location: On the west side of Eagle Rd. just north of Wainwright Dr.
10-LOT SINGLE FAMILY RESIDENTIAL & COMMERCIAL SUBDIVISION.

Applicant (not identified) concurred with the staff report.
COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-18 BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AS STATED IN THE STAFF REPORT.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Van Ocker – This parcel/area has actually come before us before and essentially what we are doing here is just adjusting some existing zoning that’s going to better align with some roadways. We’re creating a nice buffer with the L-OD buffering Eagle Road and then the remaining R-1C so I think this is an appropriate rezone and is consistent with our Comp Plan.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB06-18 ALONG WITH THE RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONDITIONS OF APPROVAL.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

DRH06-00029/Robert Weimann
Location: 1680 N. Westland Dr.
APPEAL OF THE DESIGN REVIEW COMMITTEE’S DECISION TO APPROVE A REQUEST BY TIM BELLINO/D&D FOODS TO CONSTRUCT A SINGLE STORY, 3,740 SQ. FT. RESTAURANT WITH A DRIVE-THROUGH ON PROPERTY LOCATED IN A C-2D ZONE.

Scott Spjute presented the staff report with a recommendation that the appeal be denied.

Susan Weimann (Appellant/7633 W. Wilshire Dr./Boise/873704) – I realize that you think that you and the architect have the problems raised about this site adequately resolved and therefore are recommending that this fast food restaurant be shoved into a place that does not belong, but I am still not 100% certain that you do. The first issue that I must take exception to is the placement of the garbage dumpster. I don’t care if it fits every existing ordinance that we have, that still doesn’t mean that those of us living by it want to have it close to our homes. Aside from the smell and the lose trash that is bound to blow out of it, there is the issue of collection by BFI. Currently BFI rolls around 3 times a week at 5 a.m. to collect the trash from the Rite Aide and points east. All of the dumpsters are aligned in such a way that the drivers only have to backup once and then proceed on his way. The noise from the one maneuver is barely acceptable. If this dumpster is allowed to remain where it is proposed, it will require the driver to come in from the other direction, backup and then maneuver around to get back in line for the rest of the dumpsters. Since the area will be restricted by a building, the truck will probably have to do a 3 point turn to line up correctly. That’s more noise than I care to listen to at 5 a.m. The second issue that I’m not 100% certain of is the hours of operation. Why does one drive-up
window get permission to operate until 11:00 p.m. and the other one has to end at 10:00 p.m.? Don’t get me wrong, I would rather see both close at 9:00 p.m. personally, but I just want to make sure that everyone is on the same page here. I also want to make sure that sometime in the future that the pursuit of the almighty dollar doesn’t dictate longer hours at the KFC. The third issue that I am totally unclear about is the new fenced proposed along the south boundary of my property. I distinctly heard Mr. McKeegan’s say at the Design Review meeting: “Replacement of the cedar fence with a stone fence,” not in addition too. In either case I need to be assured that my access gate will always be available to me no matter what kind of fence is built. It is located to the west of the power pole and is 8 ft. wide. It is currently not visible from the parking lot and I would like any new fencing to have the same quality. I believe that we should revisit the section that states whom shall be notified of Planning & Zoning decisions. I do not think that the person or persons who take their valuable time to come to a meeting and voice their concerns should be left out of the information loop. Names and addresses are taken at the start of the testimony and I don’t see how it can kill anybody to have those affected by these decisions, be they good ones or bad ones, be notified of the decision. As it were, I was able to file an appeal at the start of this process because no one had to contact me about the decision to approve the conditional use permit in the first place. I don’t think that this is right. It is my life and this will negatively impact by these appeals and possible building of this restaurant, not the architects and not the Planning & Zoning and certainly not the owner of the fast food establishment. As I have said all along, it is not that my neighbors and I are opposed to growth or building in our neighborhood, it’s just that this establishment doesn’t fit into the neighborhood and I’m very disheartened to see that it is shoved down our throats.

Patrick McKeegan (Applicant’s Architect/4696 Overland Rd./Ste 174/Boise/83705) – We agree with staff’s analysis and recommendation for denial of the appeal and request that you support that so we can move forward with our project. This lot is an existing lot and is zoned for the restaurant use that’s there. It’s been there for a long time. It’s been for sale for a long time and just about any use that goes in there is going to require a dumpster and in all likelihood it’s going to be in the same location as the rest of the dumpsters along the back of the property. This was debated at length during the Design Review hearing and at that point, as indicated, they supported our request that it be struck so that we could keep the dumpster where it was at. Any other location on our property would remove parking spaces and cause traffic conflicts. We emphasize with her problem that BFI does chose to come at 5 or 6 a.m. and dump the dumpsters, but we have no real control over that. As far as the fence, we’re being required to put up a 6 ft. masonry fence by Design Review to buffer the neighbors. We are not going to put a gate in the fence because there are liability issues associated with allowing somebody on the adjacent piece of property to have access onto our property without any kind of control. We don’t feel it is our responsibility to allow people to have access to their back yards from our piece of land.

Ms. Van Ocker – Can you cover the hours of operation that Design Review has placed upon this for the drive-through? I read it to be 10 p.m., is that correct?
Mr. McKeegan – Yes, that’s correct. At some other locations they are open until 11 p.m. but in this case we can live with 10 p.m.

Commissioner Van Ocker – In their letter BFI didn’t mention if this is going to be a large dumpster. It’s front-loading I’m assuming.

Mr. McKeegan – Yes. It will be a 6 instead of a 3 and the only difference is the 6 yard dumpsters are just a little higher. In any case they are going to be behind a 6 ft. masonry screen with steel gates that will be closed all the time. The difference between a 3 yard and a 6 yard is one is 65” high and the other is 68”. It may be a little bit longer, but they are going to be the front load type.

Commissioner Van Ocker – Which will limit the amount of backing up and the beepers?

Mr. McKeegan – Correct. Going to the larger one will also reduce the number of times per week from 6 to 3 or 4.

Caroline Roscow – I am very opposed to this. My mother lives on the corner right across from where this restaurant is supposed to go in. I have been opposed to this in the beginning. I’m still opposed to it and while I realize that life goes on and things move on, I don’t feel this is the place for this restaurant. I’m concerned about traffic. My grandkids are at my mother’s house several times a week. They are 9, 4 and 1 and it really scares me because there’s a lot of traffic that goes through there. I go to my mother’s house probably 3 and 4 times a day and I find it hard at times to even back out of her driveway as it is right now. My feeling is my mother is feeling this restaurant would be better suited somewhere else, not in this particular piece of property.

Denny Wagstaff (Owner of Subject Business/906 W. Half Moon Ln./Eagle, Id./83716) – I certainly understand the neighbor’s concern. We put the 6 ft. masonry fence up before we were asked because we’ve been down this road before and every neighborhood I’ve ever come up against, they want some kind of a sound barrier so we approached that with Design Review before we even submitted the project. All the other dumpsters are right along that row. I’m sorry that their property backs up to commercial property and we try to be good neighbors. We’ve relocated our drive-thru speakers so they don’t face the houses. We have the barrier there. We tried to put the dumpster in a location that is right for the site and won’t require much backup. We have agreed to limit our hours of operation. Many of our locations are open until midnight in the summertime. We backed off that a couple of hours at this location to try and keep the neighbors happy since they are so close. We’re trying to be good neighbors, but I also know that this property is zoned for this use. It’s a total commercial area. We’ll do our best to try and make sure everything is nice for the neighbors but there’s not much we can do that we haven’t done. If there’s something else, I’d be happy to take suggestions that are within the law.

Mr. Spjute – The issue of the use in this location has been decided and is not up for consideration this evening. With regard to the dumpster, the dumpster is actually 45 ft. away from the property
line which is considerably more than in many other instances. Regarding the hours of pickup by BFI, the hours are set according to a contract between the City of Boise and BFI as to when they can go in and pickup and is not something that we can condition from this podium.

COMMISSIONER VAN OCKER MOVED TO DENY THE APPEAL OF DRH06-29 AND APPROVE THE CONDITIONS OF APPROVAL THAT HAVE BEEN AMENDED BY THE DESIGN REVIEW COMMITTEE.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – Our reasons to hold up any appeal are typically very strict and I have found no evidence that has been presented tonight that would show where the Design Review Committee made an error in their determination of our Zoning Ordinance. Personally I think the garbage dumpster is probably located in about the best place that you could hope for. It being a front loading dumpster is going to help a lot. It is what it is however. This is a commercially zoned piece of ground. I think the applicant has gone above and beyond what we would typically require as far as landscaping separating drive isles. The CMU fence is not something that we would typically require either so I think that the only appropriate thing to do would be to deny the appeal and uphold Design Review’s decision.

MOTION TO DENY THE APPEAL CARRIED WITH COMMISSIONER BRUNELLE ABSTAINING FROM THE DISCUSSION AND VOTING AS HE IS A MEMBER OF THE DESIGN REVIEW COMMITTEE.

CAR06-00013/City of Boise
Location: Between the New York Canal and the Boise Airport
ANNEX 137.4 ACRES WITH A ZONING DESIGNATION OF M-1D.

Carl Miller presented the staff report with a recommendation of approval.

Commissioner Wilson noted that a letter of opposition was sent in from Larry Moore.

COMMISSIONER COOPER MOVED TO APPROVE CAR06-13. COMMISSIONER VAN OCKER SECONDED.

Commissioner Cooper – This is a very logical extension of the City’s boundaries to use the canal as a border. It's well within the City’s Area of Impact and the uses are consistent with the adjacent similarly zoned property.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

CUP06-00026/Roth Homes
Location: 501 E. Parkcenter Blvd.
CONSTRUCT A PUD OF 150 RESIDENTIAL UNITS ON 12.65 ACRES AND AN EXCEPTION TO USE THE HEIGHT LIMIT OF THE L-OD ZONE FOR THE ENTIRE PROPERTY ON PROPERTY ZONED L-OD, R-1C AND R-1B.

SUB06-00019/Bello Borgo Subdivision
Location: On the west side of Parkcenter Blvd. across from Highland Street.
150 LOT, SINGLE FAMILY & CONDOMINUM RESIDENTIAL SUBDIVISION.

CFH06-00009/Roth Homes
Location: 501 E. Parkcenter Blvd.
REQUEST FOR A BOISE RIVER SYSTEM PERMIT TO CONSTRUCT A RESIDENTIAL PUD THAT CONTAINS RIPARIAN SETBACK LANDS & WATER AREA ADJACENT TO LOGGER’S CREEK IN L-OD, R-1C & R-1B ZONES.

Carl Miller presented the staff report with a recommendation of approval.

Van Elg (Applicant’s Representative/462 E. Shore/Eagle, ID./83616) – The developer has gone through a great deal of research on this project. There’s a history with this project and the neighbors have a right to be concerned about what has gone on in times past and what has been approved. We want to reassure them, and we did at the neighborhood meeting, that this will be a well designed, well thought out project, great constructions materials, very unique. This is an Italian themed project with high quality construction of materials and a very visually appealing design. The owner researched some of the Tuscan and Venice projects, Italian themed to come up with a village type concept, Bello Borgo meaning beautiful village. His wife did a tremendous amount of research in Italy to come up with the designs that he has since implemented in this project. You can see some of the pedestrian malls, the courtyards, the paved cobbled areas for pedestrian use. In this particular project you’ll see that the vehicle and pedestrian accesses intermix here a bit and we’ll show you how that separation occurs in this project, how we distinguish between those two. You’ll see that there’s some heavy timber and masonry construction. This will all be of high quality construction. The project will be quaint in that through these pedestrian pathways there will be areas where the residents will be gated off and they will able to enter into that gate and that will be the access into their home and courtyard. There will often be a den or a garage level den or kitchen on some of the buildings which will allow for work-at-home type facilities. Pedestrian malls will occur throughout the project. There’s going to be some topography change in this project to give some variety to the views. The buildings are curved and will add some dimension and a change of view from different locations throughout the project. You’ll see some of the old world lamps and such. The owner has also indicated that he will follow that same type of pattern of development using old world treatments for some of the construction materials, the lighting fixtures and things that go throughout the project. There will be park benches, floral and vegetation throughout the project, little fountains where the residents will be able to wander through the project and relax and enjoy the setting. To the north we have Parkcenter Mall on the immediate north boundary of the project. We’re bringing Highland across the street as required by ACHD and aligning that with
the Highland to the east. Rather than extend it all the way across and over the top of the canal, Highland will turn, head south. There’ll be a new street there, I believe its Vultaria and then back to Parkcenter Blvd. The only public street will be around the perimeter of the project. There will be single family detached 2-story units. The remainder of the streets will be private drives that will access the motor courtyards of the project. From Parkcenter Blvd, this an artist’s rendition of what you’ll see from Parkcenter. You can see the aesthetics of this project will have a draw. There is a separation between the motor courtyard or the vehicular access and the pedestrian access for the project. There will be a mixture of 2 and 3-story units around the periphery of the property which will help to off-set the mass of the project to the center core where you will find 3-story units. The motor courtyard will be separated from the pedestrian areas. The fence around the fence is 4 ft. high masonry, stucco type fence with 2 ft. wrought iron on top of it. It will be a 6 ft. fence but it allows you to see into the project and create some link to the project from Parkcenter rather than a large fence that would hide the beauty of the project. There will be a diversity of units with a variety of entrances into the project. There will be built-in barbecues with other amenities as well. Most of the units will be 2-bedroom with a den. Some will be 3-bedrooms. There will be a community and pool facility. We initially had it on the southwest corner of the property down near the open space area, but at the neighbors were concerned with the pool noise, lights, etc. and so we flipped the community area up to the northeast corner of the project. The project will have 2 circulation patterns, pedestrian and vehicular. It will be a very secure environment for the residents. The units will be close together. There are a few conditions that we’d like to address. There’s a condition that says we have to provide an apron along the southern boundary of the property. We’re confused as to where that apron should be. It’s not that we wouldn’t be willing to do it, it’s just that if this piece of property were to redevelop in the future, we want to make sure that it gets an apron put in where it’s supposed to be. It will be public right-of-way all the way to the southern boundary so if this piece of property were to develop, we wouldn’t want to limit them by putting an apron in that may not fit with their plan in the future. Our proposal is we can put it on the conditions, we can put a sign up to the residents, and we can let them know when they buy the property that there will be a street at some future date here. We can put in the CC&R’s, but to put an apron here I think we’re just guessing as to where that might best fit. We don’t know. We’re not the developers of that site.

Commissioner Brunelle – In looking through the plans I tried to identify how you’re going to handle storm water. It appears to me that what you’re talking about is hard and surface over a large percentage of this land. I’m wondering what you’re going to do with rain, storm water runoff, etc? All I see so far in here is it just says that Public Works says you need to give them a plan for approval, but I’m just wondering what thought you put into that.

Mr. Elg – We’re not touching Loggers Creek. We’re trying to remain away from Loggers Creek. On the southwest corner of the property there will be a large retention basin developed with riparian vegetation. That will be a large retention/storm drainage area for the property and it should be sufficient to accommodate this site.
Commissioner Brunelle – I noticed in the subdivision report, 8a, there’s a specific condition that calls for a micro path to be provided on Lot 12 of Block 2 connecting Highland Street to the west property line with a minimum 5 ft. of landscaping on each side of the pathway. I didn’t hear you discuss that.

Mr. Elg – It wasn’t addressed in the original staff report. It was in the subdivision report. I talked to Todd Tucker today about that, about the discrepancy between those two. Our intent has not been to put a micro path in. We talked to the neighbors and I think you will find that at least one of the neighbors will be here to talk about that tonight. There’s quite a bit of neighborhood support against that, not wanting to have that connection for a number of reasons. It’s a private access on the west side of the property. The neighbors have maintained that area personally so there’s some questions about liability related issues if we were to allow a pedestrian pathway through that connection. The bridge isn’t constructed in such a fashion that it would accommodate pedestrians and would require some reworking of that. We’ve talked with the Southwest Neighborhood Association. They gave us a letter of support. The letter did not focus on the pathway connection which they had initially had done as a neighborhood association but since have seemed to back away from that. We’re not in support of a pathway connection. We don’t believe that there is a need for that in this particular case and there’s a number of very difficult questions to address because it’s on private property and we can’t control that. We’d ask that you waive that condition. I believe staff is supportive of that too.

Mr. Miller – Typically pedestrian connectivity is in the purview of the Subdivision Ordinance so that would be their requirement to require the connection. I did address that as far as the planned unit development portion of it indicating that ACHD did not require the extension of Highland Street across Loggers Creek due to the substandard nature of the existing bridge. ACHD did not require the vehicular connectivity of that and the Subdivision Division has recommended that pedestrian connectivity. I failed to mention in my presentation that I have received some other exhibits from neighbors that I will present to you. It includes exhibits from neighbors from the south and west of the site.

Commissioner Cooper – I was looking at the unit plans and how they relate to the motor court on one side and pedestrian access to the other and it seems like there is actually a change in elevation from one side to the other in some cases. Is that true?

Mr. Elg – Yes.

Commissioner Cooper – There is a place kind of in the center of the project where there is a vehicular road that goes sort of from southeast to northwest but is blocked by a pedestrian thing going the other way which I assume is a story up in the air?

Mr. Elg – There won’t be that great of an elevation change in these projects. There won’t be like there’s bridge or tunnels that go underneath to separate them.
Britt Bambic (2525 Schmeizer Ln./Boise/83706) – I’d like to go over some points in the staff report, page 1132 and quote some statements here: “The proposed development will not adversely affect property in the vicinity. Views from the existing residents of Boise Foothills and scenic vistas will not be obstructed.” The properties immediately adjacent... inaudible. We’re looking at 2-story... and then the remaining clear... story giving that 5 ft. maximum. What the applicant is asking for... R-1C property... conditional... What we’re looking for... gradual... Another quote on the page, it says that it’s going to provide 1.57 acres of riparian common area where public can observe nature and obtain a higher level of solitude as it’s typically found in a developed park. That’s on chapter 5 of the same page. I don’t know about solitude, but I would say that based on the density of we’re looking at approximately 147 resident units in a high density, 3-story area. It’s going to be difficult to be able to achieve that. I think they’ve done remarkable from based on what we’ve seen so far. But, but putting 3-story units... traffic from lights, probably have streetlights... so that spillage is... This property... The landscaping indicates dense forestation and abundance and I want to focus on the indication that it says “indicates” abundance. What we’re looking for is some good barrier on the far side, have some good forestation to buffer the lights and the spillage and also some type of fencing so all these residents don’t come into our private property...

John Gaumer (248 E. Highland/Boise/83706) – I have some handouts for the Commission.

Commissioner Wilson – For the record we have received some aerial photos, drawings and a petition.

Mr. Gaumer – I’m the closest neighbor to the proposed Bello Borgo project and I’ve been very impressed with the Land Group’s willingness to listen and work with the neighbors concerns. I will actually share a piece of land with the new owners. The road and bridge that serve as my driveway and is highlighted on the map on the first page of my handout is actually attached to the land to be developed and is the subject of condition #7 that Van spoke of earlier. My immediate neighbor, Rod Priest, and I have even discussed with the Land Group and Steve Roth, the acquisition of this driveway. I’m speaking to you tonight however not just as an individual neighbor, but as a representative of 70 neighbors because it has been suggested this private driveway be made open to public access for the benefit of our neighborhood. The 5-page petition you have in front of you shows that all of the neighbors oppose public access to this private lane. We see no benefit for us nor does the developer for his development. You see the signatures of 70 households. These are not individuals but 70 households which oppose changing this lane to public access. The map you have shows in the red crosshatched area the large surrounding area these 70 signatures represent. It encompasses all the land surrounding the lane that would be impacted by such a proposal. We neighbors speak with one voice in opposing the opening of this lane to public access. Here are some questions to ponder should the Highland Lane become public. For 35 years Rod Priest and I have had an easement to use and maintain this lane as our driveway. Who would assume that responsibility for the road and bridge maintenance that we have always performed? Who would assume the liability for the road and the bridge that we have, until now, accepted? There’s a safety concern. The 1-lane bridge you
saw a moment before that crosses Loggers Creek has an uneven, 2-track surface and no handrails. Is it safe for all ages of the public? How will unaccompanied young children be monitored for safe and responsible behavior on the bridge, particularly when a car or service truck is crossing? How will the riparian area, which is populated by nesting ducks and geese at this time of year, be protected from a large increase of curious people and their dogs that may or may not be on lease?

Commissioner Ellsworth – Are you suggesting a gate at the bridge?

Mr. Gaumer – No. I’m suggesting, since it is a fenced, enclosed community, that there be no access from that into my driveway and bridge.

Commissioner Ellsworth – We’ve got a public road that comes around the corner, right?

Mr. Gaumer – Yes it does, and it turns just short of my driveway.

Commissioner Ellsworth – So what happens when somebody comes around the corner with the way it’s proposed right now?

Mr. Gaumer – They will not be on my driveway. That’s their property. I can’t really show you with the map you have, but that driveway that circles their project does not come across onto my driveway area.

Commissioner Ellsworth – Somebody could walk from the road across the bridge, is that right?

Mr. Gaumer – The proposal, condition #7, asks that we open a gate for people to cross onto that bridge and the neighbors are opposing that.

Commissioner Ellsworth – Right no there’s a gate.

Mr. Gaumer – There is no gate, no.

Commissioner Ellsworth – Will there be a gate?

Mr. Gaumer – We hope not. We oppose a gate. There is a fence and gate where Highland lane ends because the road has deteriorated beyond that into just broken asphalt. We ask that there be no gate in the wrought iron fence to provide access from both directions since it is a very private area.

Edward Jenkins (530 E. Parkway Ct./Boise/83706) – I was involved in three different developments along Parkcenter Blvd. and one of the things is Parkcenter Blvd. is a beautiful street. We have attempted, over the years, come to you people and to the City to put in the berms along Parkcenter Blvd. as originally put in and approved by the City and the Planning &
Zoning Commission. I am concerned that that doesn’t appear to me that there’s going to be a berm here. But, I did not receive notice of this development until this last Saturday, 2 days ago. I met with Carl Miller and I did get a bunch of information from him, but I have some concerns I’m wondering about. For example, the units that are right along the creek are on lots that are only 32 ft. wide. They remind me of what’s been going on in the city with the 2 and 3-story buildings on the 25 ft. lots. When you look at that and across the street, and there is a photograph in the 8 and 9 area, that shows that really well, there’s a very large house on a very large lot and here you have the transition going to a 32 ft. lot. I think that really needs to be reconsidered and redesigned. That’s my request that you do that. In the southwest corner of the project there are 3-stories that face to the southwest and those are 3-story. Those may be much better if they were 2-stories because the people across the creek there will lose a good portion, if not all of their view corridor that they’ve enjoyed all these years. I see that as a problem. The fence at the south end, I see you’re going to provide that, but you’re going to also provide gates on that lip, like they’re going to spill into the other residential areas. I don’t know if that’s true or not because I haven’t had the opportunity to review all the information. I would see, in my judgment, that there ought to be on the total south boundary, a fence and then where the property ends, it then should go northward up to the creek so that there isn’t the movement of the people from the center of this into the residential areas. I am very unhappy that I didn’t receive the notice of the 300 ft. that I received the last two times that that property was talked about.

Commissioner Wilson – For the record we have received a copy of the testimony from the neighborhood.

Doug Kowallis/267 Schmeizer Ln./Boise/83706) – There are 3 points in the letter that I sent to you. I have not seen, as of yet, any elevation along the south side nor any landscape proposal. I’ve seen a few things but I can’t make any determination off of what type of screening that’s going to give to the neighborhood. In my letter I make 3 points, one is we need to make sure we address that south boundary screening. If I heard correctly tonight that there is no setback, just the street at 0 right along the property line, if that’s correct, that’s inadequate and I can’t even imagine that being approved. That is one place that I would like you to take particular care in addressing. In that letter I also addressed the fact that the 3-story pushed up against the property line, again we have no concept of what we’re looking at. In the screening, it may be okay, but it’s going to depend upon the screening, berming and mature trees to block that out. Lastly there is nothing addressed that I can see of the fence moving along that radius curve and what prevents the neighbors from coming over and using our private drives as public access because it’s very inviting and we struggle with it now. On the public access over into our neighborhood, I think that if there could be some, whether that’s a deed restriction, something that could be referred to in the future that could help maintain that. From my personal opinion I think that most other things can be addressed by the landscaping issues along that south and along that boundary. 3-stories, again, that’s a difficult one but I understand the density that could go into that area.

Commissioner Brunelle – Are you speaking specifically to, this access question, of the bridge?
Mr. Kowallis – No, not at all. Schmeizer Lane is off of the southern… so all of the homes that … are not on this map, but we’re all looking north towards it. So the access that I’m looking at is what prevents… there needs to be landscape buffering along this whole lane, this southern boundary. Have that held off until we know what happens to this other property which is already residential. It’s a 4-acre piece and if it ever were to develop, there’s no way possible it could develop into anything more than four 1-acre parcels. That’s the concern, protecting the special neighborhood that really is one of most unique in Boise. My concern is that as people use, are they going to be able to use this riparian area and what will prevent them from coming on down and just walking right through using the private drive access down to this neighborhood? It’s all private driveways along private… looks like public access. What I’m asking is this is where we need to pay attention to right here. I don’t know if that’s transitioning from one type of screening to a different type of fencing along the radius or how that’s done, but it’s one point that I want to stress.

Rod Priest (220 E. Highland St./Boise/83706) – We’re wondering who would be responsible for cleaning the trash and pet waste that people walking dogs would leave along the creek and also down Highland Street if there was the gated access out of this project onto the bridge and that area. I have the original easement on the property which goes back to 35 years ago so it’s remained just like it is for that length of time. We do have the liability of it and I’m very concerned about who takes the liability when the public is allowed to wonder down the road and cross the bridge. How will the parking be controlled so that our single lane driveway would never be blocked off from emergency vehicles? There’s no way of controlling people who might want to drive down the road and walk into this project through their gate. How would the vehicle access be limited to authorized vehicles only? How would pedestrians, funneled by the new access to Parkcenter cross that busy street? At this time there is no pedestrian crossing at that point. The closest would be Mallard Dr. Lately a great deal and important to all of us is the wildlife question. When the 12 acres are developed of course, the deer, fox and raptor habitat are going to be affected, perch trees adjacent to Loggers Creek will be displaced by these condos. Would it not be prudent to protect the riparian area and wetlands that remain by continuing to limit and not broadening access? In other words many trees are going to be removed by necessity, which is fine, but that’s all the more reason to give the protection to the riparian area. Are there valid reasons for changing the access to this lane after 35 years of tradition of the residents, their yards and patios facing this private drive? To us, the 70 household signing this petition, it seems the inherent problems with making this lane and bridge public would far outweigh and benefit and we therefore are in opposition to that access.

Jackie King (128 Parkway/Boise/83706) – My main concern is the open area that there seems to be no real plan for. I want to know what’s going to happen there. That’s directly across from my house and several other houses and adjacent to. They are calling it a riparian area. What does this mean? Are we going to have cake parties there? What’s going to go on in that spot? The other thing is the 11 houses being built in the same space of 2 houses across the creek. This seems not to go with what’s already been there.
Marsha Van Degrift (9520 Malad/Boise/83709) – I am representing my sister who does live there directly across the creek and down a couple of houses. This is a unique area. There are so many deer, mink, otter, fox, and owls. We understand that some development is inevitable there, but the amount of houses there, that’s almost 9 houses across from the 1 lot there. We think that’s really excessive. We think it’s just a shame to sacrifice this unique area. I work in my sister’s home. A few days ago I sat at my desk and there were 4 deer bedded down across from me, two bucks with little spikes and 2 does. We see ducks and geese. In the last month we’ve seen mink maybe 10 times. We’ve seen otter. We’ve seen a beaver out in the moonlight working. This is such a special area that I think a lot of people don’t realize and Loggers Creek comes in, a little part of town comes through like this, and it seems like it’s just such a gem. It sounds like that’s a great project, but I don’t think it has to be built here. I would love to see this preserved and I feel the wildlife is a really, really critical issue. There’s very few spots in Boise that this is offered.

Doug Zamzow (415 Schmeizer Ln./Boise/83706) – I sent in an e-mail to Carl and hopefully it’s gotten to your file. I’d like to reiterate the neighbors to the south and their concern about a physical and visual separation between the new development and the property owners to the south that would run the full length of the south boundary. I got the impression from the Mr. Elg, he said at one point there was going to be a masonry type wall with wrought iron on top of it. I’m not sure if that bends and comes back along the south wall, 4 ft. of masonry or similar to masonry with wrought iron on top. The riparian zone which also doubles as a storm drain basin, I’d like the developers to at least consider and have a plan for mosquito abatement because at certain times of the year like we’ve had the last couple of months, that could be a real issue with the creek right there and mosquito problems. It would be nice if any of the trees could be salvaged. I don’t know, that hasn’t come up so far but there is a lot of relatively old growth in there but with the density there I doubt if many, if any, of the trees will be salvaged. It does look like there has been an attempt at the massing with the 2 bedrooms. I’d like to request if there’s any way that more of the dwellings planned along the south property line of this development, just on the edges there along the southern boundary, could go to a 2-story versus the 3-story.

Cynthia Bambic (252 Schmeizer Ln./Boise/83706) – We own the property in the southwest corner and a buildable lot adjacent to the proposed development. My confusion is in that 1.7 riparian water runoff area, whether it’s going to be a water runoff area just strictly landscaped or whether it’s going to be eventually the development park and go look at the creek zone because currently my 8-year old plays out there and it is a private lane, but that’s not going to stop anybody from just coming over basically in my front yard as well as being hindered by the mosquitoes and whatever else can develop by having it as a water runoff area. I’m confused about that area as much as I like it being left open near my property, it’s still going to provide access into not only my front yard but the entire neighborhood and many people in Boise and Southeast Boise like to walk in this neighborhood so of course they are going to like to come and cross my front yard to get into that neighborhood. It’s full of equestrian uses on the 1-acre parcels next door. Everybody has horses or livestock right next door. I’m concerned whether they are going to be able to use it for the community to go and enjoy the creek or whether it’s
strictly water runoff. I would like to see lots of vegetation and preferably some sort of fence to diminish the lights and the noise and the traffic and most of all keep those inhabitants over there and not gravitating into our neighborhoods.

Commissioner Brunelle – Is your lot the triangular shaped lot to the west?

Ms. Bambic – No but I’m hopefully speaking for my good neighbors there too. The triangular lot is directly next door to me to the north.

Commissioner Brunelle – What’s the buildable lot you referred to?

Ms. Bambic – To the east.

Commissioner Brunelle – Tell me about the wetland?

Jackie King - The wetland is actually in the area probably where the first two homes are located to the north. Where the free-standing homes are there is a wetland area there.

Jan Cook (1228 E. Woodvine Ct./Boise/83706) – I own the property at 255 Schmeizer Ln. It’s right in front of the riparian area. I have met with people from the Land Group. My concern is I was told that the condominiums that are directly in front of that riparian area were going to be 2-stories and gradually moved up to 3. It looks like they just have one 2-story at that area and then the rest of them are 3 stories. I have a real concern about that. I have talked with the Land Group about the riparian area. We have discussed that they will work with me and the other neighbors on making sure that there is good landscaping that will close off the lighting and the traffic noise. I’m concerned about the 3 stories that are so close to that area.

Jim Sup (1228 E. Woodvine/Boise/83706) – Our concern is with the riparian area and whether or not there has been a real study done on if there was a significant or water event of some kind, whether that area is large enough to handle a significant runoff because it sounds like the whole entire project is hardscape. We’d like to know if somebody has seriously considered whether or not that space is big enough or if it would indeed have a potential of flooding over into the property that’s on the corner.

Dave Sterns (170 Parkway Dr./Boise) – The thing I’m most concerned about are these little homes along the north side there. These look like infill homes and I don’t think it would be very appropriate to the neighborhood to have these little homes that are 2-stories high and also probably can look down into the neighbors’ back yards.

Commissioner Cooper – I could find a condition in the report about the micro path connection. I think the neighbors have made a pretty substantial argument. It sounds like basically if we required this they’d be connecting to what amounts to a private driveway for 2 residences over
there. I just want to get a final comment from staff if they think they want that condition in there or not.

Mr. Miller – That was condition #7 of the subdivision report. Typically subdivision reports address micro paths and pedestrian linkages. I’m not sure if they were aware of the context of the site with the substandard bridge actually providing the access point to the western properties. As seen on the photo, this may not be an appropriate or safe access point although typically by philosophy we do encourage pedestrian inner connectivity. It was not recommended in the conditional use and may not be most appropriate at this point either.

Commissioner Ellsworth – There is something that came up about an apron on the south side. Can staff go over that?

Mr. Miller – The proposed public road, Vultaria Street is to align with the southern property line and the staff report suggests that a paved apron be demonstrated to connect this public road with the larger lot to the south as it is approximately 4.5 acres and has potential for redevelopment. The advantage therefore would be that there’d be some obvious vehicular connectivity for any proposed development at that place. The negative aspect of that would be it would lock in any proposed development to connect at that location where the paved apron is or cause increased cost to ACHD of ripping out the paved apron and then relocating that if this were to resubdivide. Staff had suggested that paved apron be located to increase public awareness to facilitate that inner connectivity.

Commissioner Ellsworth – Are we comfortable with the applicant’s proposal of changing that condition?

Mr. Miller – Either way the public road does connect to the southern property line and would provide for inner connectivity in the future. Staff is comfortable if the paved apron wasn’t required, there still would be the appropriate connection points.

Commissioner Van Ocker – Why has there not been any landscaping required along that public street to the south?

Mr. Miller – There is proposed landscaping both in street trees, 5 ft. of landscaping between the sidewalk and the southern property line at strategic locations. There will be trees aligned along Vultaria Street as well as landscaping in the naturalized open area. Staff has recommended that it be a condition of approval that Design Review take an even more focused look at exactly the tree location, type and size, etc.

Commissioner Cooper – It looks like recommending that Design Review actually look at not only landscaping but several of the building facades that were in question by neighbors tonight, is that correct?
Mr. Miller – The reason we asked Design Review to take a more focused look at the landscaping and architectural features is we find that they are attractive units but they should be reviewed by Design Review as well.

Commissioner McLean – Cody, could you address the concerns about the size of the riparian area and whether or not it’s adequate for the amount of runoff that this area would create.

Carl Miller – It is an almost 2-acre riparian area that can also be used for drainage. That seems adequate for the size of the development. As far as I’m aware, we don’t have an engineering study or analysis done, however that is a large area set aside for open space and for drainage.

Commissioner Cooper – Public Works would require actual flow calculation in the submittal to make sure it’s adequately sized?

Mr. Miller – That’s correct. It would be required that all drainage be retained on site.

Commissioner Ellsworth – Is there a fence that’s required along the south property line at this point, or is that a Design Review issue as well?

Mr. Miller – Specifically we have recommended that Design Review take a specific look at fencing along the south boundary. It seems appropriate and we would like them to look at exactly what type of fencing that would be. I’ve heard from neighbors that it should be sight obscuring. I would like Design Review to take a look at that and figure out the details of exactly the height and the materials.

Commissioner Ellsworth – Would that fencing go around the curve up to the 2-stories, or would it go around the property line in back of the riparian area?

Mr. Miller – Staff has suggested that it go along the southern property boundary all along Vultaria including the riparian area to exclude foot traffic from that area to individual properties to the south.

Commissioner Brunelle – Back on condition #7 in the subdivision report, the condition concerning the micro path on page 24, what this states is that there will be a micro path provided on lot 12 of block 2. According to my interpretation of the drawings I’ve got, lot 12, block 2 is the naturalized riparian area/storm water retention area. Is this the same condition that is the concern that Mr. Gaumer and neighbors all brought forward? Are we talking about a condition here that would have a micro path running north/south along the western edge of this property?

Mr. Miller – Many of the neighbors have expressed concerns about the opening of the pedestrian bridge along Highland Street to the residential subdivision to the west. Along the south, that is private property and would not have a feasible access point nor would foot traffic be desired by the neighbors in this area. It’s difficult for me to tell exactly what the intent of that
recommended condition is. It looks like the Subdivision Staff has recommended a pedestrian
connectivity along there, however I’m not sure if they understand the context of the area.

Commissioner Brunelle – But if you read it the statement stays to provide it on lot 12 of block 2.

Commissioner Van Ocker – It stretches the whole way.

Commissioner Brunelle – So lot 12 is the one that runs between all of these lots and Loggers
Creek. I’m trying to get an understanding of whether the subdivision condition was calling for a
micro path that essentially was an east/west micro path on lot 12 of block 2 or whether it was
also parallel to Loggers Creek.

Mr. Miller – Lot 12 is the entire common area outside of the individual building pads. That
would include the riparian area all the way up to the existing bridge. The only logical place that
the subdivision staff could be talking about is that pedestrian path that connects across the bridge
which is on lot 12.

Mr. Elg – The fence along the southern boundary of that property, there’s been a suggestion
about a concrete fence, some improved landscaping, there are trees along this entire southern
boundary interspersed, alternating trees that will be located along here. We don’t have a fence
planned along there yet, but we think that this project, the project is attractive and appealing. I
think a fence will detract from what we have there. But if that’s something that’s absolutely
imperative, certainly we’ll consider some sort of fencing along there. Keep in mind there are
some open areas along the southern boundary as well in addition to the 2-story units, the massing
that transitions back, the open areas for the pathways, walkways, etc., the riparian area along the
southern boundary. One of the neighbors didn’t want to see a fence along “this” boundary. A
suggestion might be that perhaps a wrought iron fence along there if they are concerned about
access. You’d still be able to see through it, still see Loggers Creek. That is something that we
could certainly talk about. There’s another issue that we need to make sure that we discuss and
that is along these single family units the neighbors here are all supportive of these 2-story units.
We have a 15 ft. setback in the driveways on those units to the property line, then there’s a 5 ft.
area. We have a 15 ft. setback from our driveway to the right-of-way then there’s 5 ft. additional
until we get to the back of sidewalk so we do have a 20 ft. setback in there. There’s a condition
in there that talks about requirement a 20 ft. setback. In reality we do. ACHD’s already reduced
the width of this street knowing it’s not going to go anywhere else. It’s not going to have heavy
traffic. It’s not going to develop so they’ve allowed us to, at their request they suggested that we
put it to a 42 ft. street section instead of 50 ft. We have ample room for a 20 ft. driveway in there
although 5 ft. of it will be in setback. We’d ask that you reconsider that condition of approval as
well. There was a comment about the wetlands and concerns about that. Please be assured that
we will stay out of wetlands or appropriately mitigate any wetlands that we disturb there.
There’s some wetland areas up along Loggers Creek and we’re designing around those to help
preserve that area there. We support staff’s comment about removal of the apron condition. I
think we ought to leave that to the adjoining property owner. We believe that the property to the
Boise City Planning & Zoning Commission
Minutes of
April 17, 2006
Page 19

south will likely develop not at 1 dwelling unit per acre, but probably at a higher density. Maybe even higher or similar to what we’ve got. Previous approvals that have been given were for a much higher density than this one. We’re less than half of what could be allowed in that area. We certainly will comply with any of the Public Work’s requirements regarding drainage and tree preservation we’ll discuss as well.

COMMISSIONER VAN OCKER MOVED TO CUP06-00026 WITH THE FOLLOWING MODIFICATIONS TO THE CONDITIONS OF APPROVAL: #3D DESIGN REVIEW COMMITTEE AND THE APPLICANT SHALL WORK ON THE APPROPRIATE DESIGN OF THE FENCE ON THE SOUTHERN BOUNDARY OF THE SITE TO PREVENT ANY PEDESTRIAN ACCESS TO THE SOUTHERN PROPERTY LINE. FENCING ON THE WESTERN PROPERTY LINE, SPECIFICALLY IN THE RIPARIAN AREA, SHALL BE WROUGHT IRON OF A DESIGN THAT IS APPROPRIATE WITH THE DEVELOPER AND THE NEIGHBORHOOD TO PREVENT ACCESS TO LOGGERS CREEK. ANY ACCESS TO THE EXISTING HIGHLANDS ROADWAY SHALL BE PREVENTED. CONDITION 3F SHALL BE MODIFIED TO READ: THE DESIGN REVIEW COMMITTEE SHALL LOOK AT THE LANDSCAPE PLAN IN DEPTH HAVING TO DO WITH THE RIPARIAN AREAS AND OTHER LANDSCAPING THROUGHOUT THE SITE DEVELOPMENT. CONDITION 6 SHALL READ: FUTURE ACCESS TO THE SOUTHERN UNDEVELOPED PROPERTY SHALL BE DEVELOPED AT SUCH A TIME WHEN A SUITABLE AND LOGICAL LOCATION IS DETERMINED. ADD THE FOLLOWING CONDITIONS OF APPROVAL: 16. THE APPLICANT SHALL REDESIGN THE AREA ON THE WEST PROPERTY LINE TO LIMIT THE NUMBER OF SINGLE FAMILY HOMES TO 6 UNITS. 17. PROVIDE A FENCE ALONG THE SOUTHERN PROPERTY LINE TO PREVENT ACCESS. 18. PROVIDE A WROUGHT IRON FENCE ALONG THE RIPARIAN AREA TO PREVENT ACCESS TO LOGGERS CREEK.

COMMISSIONER BRUNELLE SECONDED THE MOTION.

Commissioner Wilson – CONDITION #6, THE APPLICANT INDICATED THAT HE WAS WILLING TO WRITE INTO THE PLANS AND INTO THE CC&R’S THAT A FUTURE ACCESS WOULD BE THERE JUST SO THAT THE RESIDENTS ARE AWARE OF THAT AS THEY MOVE IN. Would you like to add that?

COMMISSIONER VAN OCKER – YES.

COMMISSIONER BRUNELLE – THE SECOND WILL CONCUR.

Commissioner Van Ocker – Most of my conditions of approval had to deal directly with the properties to the west and south, more having to do with the single family homes. I think that this actually a very appropriate development for Parkcenter. I think this is the type of housing stock and development, even though it is extremely interesting, I’ll be intrigued to see how well it goes, but I think we need this along Parkcenter. The problems that I have with it, and I
understand that the developer could actually build this piece of property to a much higher density and I appreciate the amount of work that they’ve gone to to try and make this a comfortable transition. This neighborhood is unbelievable unique for our valley. Even though I think they can develop this at a much higher density, I’m not entirely sure whether or not it should be done at a much higher density. I think we can made the argument that what’s been done on the east side of the public road is appropriate, but pushing those single family homes in that tight clustering, even though I agree with that type of housing stock, I don’t think that location is appropriate considering it does abut up against Loggers Creek and is adjacent to extremely large parcels that we do have to recognize are there. As far as stepping down, I was considering putting a motion in there to step down on the two stories. There was quite a bit of discussion to the south, that people wanted to see those stepped down a little bit. I don’t think those are going to encroach as much and I think that what we’ve done there is probably a pretty decent gesture and by knocking them down a little bit on the single family homes, it’s somewhat of a compromise and I think everyone is going to get what they need to get in understanding the density of this development. Oftentimes we really do try to make inner-connectivity between developments because it is appropriate. These two developments however are so different from each other that I don’t think it’s appropriate. I think people living in this area are going to want to venture into the other subdivision and we’re dealing with two different types of housing stocks there and I think we do need to limit that and that’s why the motions I made prevent access to the adjacent neighbors.

Commissioner Brunelle – The question of the micropath?

Commissioner Van Ocker – We’ll deal with that in the subdivision that’s why I was specifically speaking to having the Design Review Committee look at the fencing to prevent access to Highlands, that it’s tied to both applications.

Commissioner Brunelle – There’s some good things that Commissioner Van Ocker has done here with the amendments and the additional conditions and I can support that. The one concern I have with this is there’s really nothing in the record as far as details as to the storm water retention given the size of the project and the extent of the hardening that’s going to go on the rooftops, the driveways, the streets. I think Commissioner Van Ocker started us going in the right direction by limiting those houses fronting Loggers Creek to 6 units rather than 11 because that might open up a little bit more permeable space. What I’d like to do is offer one additional condition to address the need to focus on maintaining the water quality of Loggers Creek and indirectly the Boise River given that Loggers Creek is connected to the river. What I would like to do is redo the language that I would insert. Conditions 10 and 11 mention that the Boise City Public Works had some requirements regarding the project. What I’d like to add is some additional wording that would allow that the City and Public Works specifically to be able to have public service access to Loggers Creek in this area in order to at least monitor the water quality conditions and to be able to respond appropriately if there are issues in particular with the drainage. But also, in a larger context, there’s a real need in my opinion, this area is one of the last major pieces of land along Loggers Creek that is still under one ownership and it’s an
important area that I think we secure some ability on the part of the City for some public service access. I’m not talking about public access. I’m talking about the ability of the City to be able to address habitat, water quality, and stream issues. The wording could go something like THE APPLICANT SHALL WORK WITH BOISE PUBLIC WORKS TO DEVELOP A MUTUALLY AGREEABLE AGREEMENT THAT WILL ALLOW FOR REASONABLE ACCESS TO LOGGERS CREEK FOR PUBLIC SERVICE PURPOSES RELATED TO POLICIES 3.2.1, 3.4.1-A AND 1-B OF THE BOISE CITY COMP PLAN DEALING WITH THE WATER QUALITY AND THE HABITAT. The purpose of this is to be able to at least secure, at least for the City in the future, when we have to continue to address water quality issues such as TM deals for the Boise River dealing with sediment and in the future, dealing with nutrients, that we can work with the landowner and any successor landowners to insure that we have the ability to maintain information on what the conditions are in this area of Loggers Creek. In favor of this is if you look upstream along Loggers Creek and many of the people here tonight have homes that backup on it, commonly the lot line goes right down the middle of the stream and you have your piece of the stream and your neighbor across the way from you have their piece. If we’re ever going to get anything done to improve the conditions in the Boise River and Loggers Creek it’s going to take the agreement on the part of hundreds if not thousands of people from Spring Meadow all the way down through Parkcenter. I just feel this is too important an opportunity that we shouldn’t pass up, at least being able to secure, where we have one major landowner, the ability to at least be able to access to monitor and for any other public service projects that may have to occur in the future, to address water quality and stream needs in Boise.

Commissioner Wilson – I think that if Commissioner Van Ocker agrees and we have some discussion that’s favorable to that, you could just read your text into the record and then Commissioner Van Ocker could amend her motion to include the text that you read.

Commissioner Van Ocker – I’m agreeable to adding the text to my motion. Call it 19.

COMMISSIONER BRUNELLE – 19. THE APPLICANT SHALL WORK WITH BOISE PUBLIC WORKS TO DEVELOP A MUTUALLY AGREEABLE AGREEMENT THAT WILL ALLOW FOR REASONABLE ACCESS TO LOGGERS CREEK FOR PUBLIC SERVICE PURPOSES RELATED TO POLICIES 3.2.1, 3.4.1-A AND 1-B OF THE BOISE CITY COMP PLAN DEALING WITH THE WATER QUALITY AND THE HABITAT.

Commissioner Cooper – I think the intent is very appropriate. I just wonder if it seems to be treading a bit on the turf of the Public Works Department. Maybe those requirements should come from them and not from the Planning & Zoning Commission.

Commissioner Van Ocker – I agree, but basically what we’re conditioning is that there’s access that is going to be allowed by Public Works. If it needs to be in the conditions of approval I don’t think it’s a bad thing.
Commissioner Cooper – I will be supporting the motion but I think that there can be other interpretations of that requirement. I agree with what was said earlier. I think this project is actually an extremely creative solution to a fairly dense project and would also point out that it could be over twice dense as it is and still be permitted. I struggled with the southern boundary because I think once it’s built; people are going to find it’s not nearly as bad as they think. The project, because of its configuration, had a lot of variation in its setback and a lot of additional landscaped areas on both sides of the street. I hope that during discussion at Design Review that the fence that does get put there remains an open fence because I think this is going to be actually very nice to look at, particularly on that south side. I would like to remind the folks to make sure that they go to the Design Review meeting because that’s when a lot of these issues will be discussed.

Commissioner McLean – I will be supporting the motion because I don’t want to no support it because of a fence, but I have to say that I agree with the developer and with Commissioner Cooper that I actually think that requiring a fence on the southern end could detract from this project in many ways. It’s a very beautiful project and very unique. I think it’s a great design for the area and I too would like Design Review to think seriously about the way the fence ends up looking so that we don’t end up with what we typically see in many of these areas where we’ve really separated two lots visually with just a thick wooden fence. The other thing that I was concerned about was the wrought iron fence and the riparian area and the implications that has for the wildlife that so many people in this area treasure. I think the people developing this should look at that as an amenity. That fence could create more problems down the road than we really want to end up dealing with.

Commissioner Wilson – I agree with that and also the design of the wrought iron fence needs to reflect that deer will be jumping over it and that it doesn’t need to have spikes on top.

Commissioner Van Ocker – The location of that wrought iron fence would only be at that riparian area. It wouldn’t extend along the entire western boundary. I was only trying to prevent the very obvious aggression of access onto Loggers Creek. I think both of those conditions of approval with the fencing are pretty wide open, that’s why I gave direction to Design Review to really analyze the actual design of that. I don’t think that a visually solid fence is appropriate either. I do think preventing pedestrian access from this dense of a development onto completely vacant parcels we need to do.

Commissioner Wilson – I think it’s just to give Design Review a little better picture of what we are thinking given these things and the ideas that we had.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB06-19 WITH CONDITION #7 BEING DELETED IN ITS ENTIRETY.
COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Cooper – I think I have a slightly different take about that connection. It’s only because it’s really a private drive on the other side that I believe that it should not be a connection, otherwise if that was a connection to just a street I really think there should be cross access.

Commissioner Ellsworth – Condition #7, I was thinking that the micro path was contained on Lot 12. I was thinking that maybe we could just say in there that we are limiting or requiring the micro path to swing around and come back into this property so it would be a micro path contained within the property. I guess that could be left up to the developer to just develop their own path along Loggers Creek so that people in this new development could walk throughout the development along Loggers Creek and enjoy it instead of no path at all.

Commissioner Van Ocker – Typically our definitions of micro paths are always dealing with going from one subdivision connecting to a property line that’s leading to another subdivision. If the developer wanted to do his own internal pathway system, that would be up to him and I don’t actually think that we could, unless it was coming in as an amenity onto a subdivision, that’s not how I read that condition of approval. I read it as strictly that they are requesting that a connection be made to Highland Street which I don’t want to do.

Commissioner Ellsworth – I’m comfortable with that.

Commissioner Brunelle – My take on condition #7 and on this micro path is I think that the applicant really is going to have his hands full dealing with the storm water given that the depth of groundwater is going to be so shallow there and permeability I think is going to be a major issue. I don’t know if typically micro paths are paved or not, but I would be very disappointed if we ended up with even more pavement through a micro path. It was permeable then maybe that would work, but I think he’s going to have his hand full with the storm water issues.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE CFH06-9 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

__________________________
Gene Fadness, Chairman
Boise City Planning & Zoning Commission
Planning & Zoning Commission

Hearing Minutes of
May 1, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Brian Ellsworth, Doug Cooper, Doug Russell & Tony Orman.

Staff Members Present
Angela Brosious, Cody Riddle, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Time Extensions

CUP01-00016 & DRH01-00751/Carl’s Cycle Sales
Location: 5550 W. State Street
REQUEST A 1-YEAR TIME EXTENSION.

COMMISSIONER RUSSELL MOVED TO APPROVE A 1-YEAR TIME EXTENSION FOR CUP01-16 & DRH01-751. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Deferrals

CUP06-00017 & CVA06-00006/Patricia Hewitt
Location: 7777 W. Goddard Road
CONSTRUCT A 350 SQ. FT. DRIVE-THRU COFFEE SHOP IN A C-1D ZONE WITH A VARIANCE TO LOCATE THE FACILITY WITHIN 200 FT. OF A RESIDENTIAL PROPERTY.

COMMISSIONER COOPER MOVED TO DEFER TO JUNE 5, 2006. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00017/DA/Paul Ralphs
Location: 10500 W. Milclay & 3372 N. Five Mile Rd.
REZONE .487 ACRES FROM R-1C TO N-OD WITH A DEVELOPMENT AGREEMENT.
COMMISSIONER COOPER MOVED TO DEFER TO MAY 8, 2006. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00029/Idaho Power Company
Location: 600 ft. north and east of the intersection of Cloverdale and Victory Roads.
REQUEST FOR A HEIGHT EXCEPTION TO RELOCATE SUB-TRANSMISSION LINES BACK 15 FT. TO ACCOMMODATE ROAD WIDENING.

CUP06-00033/Ada County Commissioners
Location: 3501 E. Table Rock Road
REQUEST A HEIGHT EXCEPTION TO PLACE A 60 FT. HIGH COMMUNICATIONS TOWER ON TABLE Rock in an A-1 zone.

ON THE CONSENT AGENDA, COMMISSIONER WILSON MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00018/DA/M&H Land Acquisitions, LLC.
Location: 1841 S. Vinnell St.
REZONE 3.2 ACRES FROM R-1A TO R-1B WITH A DEVELOPMENT AGREEMENT.

SUB06-00028/Vinnell Subdivision
Location: On the east side of S. Vinnell, south of Overland Road.
12-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

COMMISSIONER WILSON MOVED TO APPROVE CAR-06-18. COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I believe that this rezone is as staff stated in their report, in compliance with the Comprehensive Plan and is compatible with the surrounding uses.

COMMISSIONER WILSON MOVED TO APPROVE SUB-06-28. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00016/Boise City Parks & Recreation
AMEND TITLE 11, CHAPTER 15, SECTION 5 OF THE BOISE CITY CODE.

Angie Brosious – Presented the staff report with a recommendation of approval.

Applicant had no comment.

COMMISSIONER COOPER MOVED TO RECOMMEND APPROVAL OF CAR06-16. COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Cooper – It seems that this application is a logical cleaning up of the relationship between the legal and County requirements so that this is easier to do when there are changes to the Area of Impact.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CFH06-00008/Hale Development, Inc.
Location: 1150 W. Parkhill Dr.
REQUEST FOR A HILLSIDE & FOOTHILLS DEVELOPMENT PERMIT FOR GRADING ASSOCIATED WITH A 3-LOT SUBDIVISION IN AN R-1B ZONE.

SUB06-00025/Conservation Alley Subdivision
Location: On the east side of Highland View Dr., north of Hill Road. 3-LOT RESIDENTIAL SUBDIVISION.

Cody Riddle presented the staff report with a recommendation of approval.

David Hale (Applicant/1402 W. Grove/Boise) – The subject site is the last remains of the entire hillside that was developed quite some time ago. The Hillside Ordinance, safety issues, the wildlife, natural habitat and concerns over whether this parcel is developable have all been addressed. Current zoning on property could accommodate up to 8 units. Very little grading will be involved, but cut and fill will be required and will be retained on site. Proposed that the project consist of 4 lots with the drainage pond being compassed into a 4th lot. Lot 1 will be maintained for Mr. Hale’s own personal use, Lot 2 will be for ACHD and Lots 3 and 4 will be the buildable sites. Disruption of the site will probably push the natural habitat to other areas.

Cathy Sewell (Applicant’s Architect/1008 S. Johnson St./Boise/83705) – Discussed contours of the subject site and locations for buildable lots. Propose to revegetate the ground with natural vegetation once the buildings are in. The intent is to try and keep both houses below the roadway.

The Commission received 2 drawings of site sections from Ms. Sewell.
Richard Colbert (2603 N Peregrine/Boise/83702) – Had safety concerns over clear visibility and blind curves on Parkhill and traffic backing out onto it, icy spots in the wintertime and pedestrian safety. There is no parking available along Parkhill. There is no posted speed limit in the area and the road system is unsafe. Wondered how the conservation easement would fall into place on Lot #2.

Roger Brazier (1234 W. Parkhill/Boise/83702) – Questioned what kind of experience the developer has had in hillside development. Previous hillside builders with no experience in developing in the foothills have created problems with mud on the streets, sinking lawns, etc. Hillside developments should be low density to accommodate wildlife and quality of life. Wildlife exists in the area that will be displaced from the subject site and do damage. For 20 years the site has been deemed unbuildable by the City and it should remain as a common wildlife area. Applicant hasn’t provided enough information on cut and infill. The approval of the original subdivision stated that the subject property would remain as open and for the wildlife habitat.

Bonnie Brazier (1234 W. Parkhill/Boise/83702) – Stated that her house abuts the proposed development and will be one most impacted. When she built her home she was assured by City Staff and directly by the Planning Director that the subject site was not buildable and there would be no additional houses. Concerned about the drainage and erosion potential as well as bringing in additional soils for infill. Also concerned about the impact the development will have on the wildlife in the area as it is one the last remaining areas in the North End.

Pat Duynslager (1267 W. Pashcal/Boise/83702) – Supports the application as the architecture will benefit the neighborhood and there’s some traffic calming that will happen on Parkhill once the development and the buildings go in. The wildlife will move around the people that are living in the neighborhood in lieu of development.

Caren Sage (President of the Homeowner’s Assoc./2619 N. Peregrine/Boise/83702) – Gave history of the owner’s and developers of the area. Was originally told that the subject site was a common area, but has since landed in private hands. There are many conflicting statements regarding the easements for the area. Concerned over what any working of the hillside will have on the street located above.

Terry Records (Boise City Public Works) – Testified that the applicant hasn’t submitted any construct plans for the houses so the cut and fill for the lots is unknown at this time. The applicant explained that one of them would be a daylight basement house and should fit into the hillside without requiring a lot of grading. On both of those sites they claim that is what the intent is. The road will require some grading to make level for the driveways but not an excessive amount.

David Hale (Applicant) – The subject lot is not a drainage lot for the existing subdivision. The drainage lot will be given back to the homeowner’s association free of charge. There are various
easements pertaining to the subject parcel and easements will be allocated for the drainage facilities. One lot will be dedicated to ACHD for that purpose. There will be a conservation easement so no further building will go on beyond what the current plans are. This is the remnant parcel of Lot 20. Has build in the hillsides before and has hired the various professional consultants to achieve what’s going to be the best project for the site.

COMMISSIONER ELLSWORTH MOVED TO APPROVE CFH06-8.

COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED WITH COMMISSIONER COOPER ABSTAINING DUE TO A CONFLICT OF INTEREST.

COMMISSIONER ELLSWORTH MOVED FOR APPROVAL OF SUB06-25 WITH STAFF’S FINDINGS, CONCLUSIONS OF LAW AND RECOMMENDED CONDITIONS ALONG WITH THE INCLUSION OF THE DOCUMENT THAT WAS GIVEN TO THE COMMISSION BY THE DEVELOPER WHICH REFERENCES 4 LOTS INSTEAD OF 3.

COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY WITH COMMISSIONER COOPER ABSTAINING DUE TO A CONFLICT OF INTEREST.

**CAR06-00004-DA/Doug Tamura**  
Location: 8880 & 8886 W. Overland Road  
REZONE 1.3 ACRES FROM R-1A TO C-2D WITH A DEVELOPMENT AGREEMENT.

Bruce Eggleston presented the staff report with a recommendation of denial of the C-2D zone, but did recommend a rezone to L-OD with a development agreement.

Commissioner Russell – In looking at Exhibit B and the vinyl fence it says that the fence shall be constructed along the north side of the property. Is there also going to be some fencing on the east property line?

Mr. Eggleston – There’s already fencing there from the existing uses.

Commissioner Russell – What type of fence is there?

Mr. Eggleston – I believe it’s picket fencing.

Commissioner Russell – When the first phase is developed, the proposal is to allow the access on Allante and the access on Overland to be open, then when the full things develops the Allante entrance will close down, is that correct?

Mr. Eggleston – I read that as Phase I will take the access off of Allante. When the longer lot, Phase II, kicks in it would close and then the other would open. I think they are only going to have one of them open according to the applicant’s item 4, Exhibit B.
Commissioner Russell – So will they be required to close of the existing curb cuts on Overland when just Phase I?

Mr. Eggleston – Correct.

Commissioner Fadness – The updated stuff you got earlier a few days ago, we can consider that in this proposal tonight even though the applicant hasn’t suggested a zone to what the staff would prefer. The information that’s most recent, we can consider that as part of this application?

Mr. Eggleston – Yes. It’s my understanding we can consider it as additional information, but not necessarily part of a finished development agreement. We still have to work out the particulars of the development agreement. There has not been time for our Legal Staff to review this. We don’t have a full blown development agreement reflecting the information.

Doug Tamura (Applicant/1124 Santa Maria/Boise) – We purchased the 4 acres to the west of this property along Maple Grove and Overland in 1986 and at that time Maple Grove was just a gravel road. We heard rumors that there was going to be an overpass put over the freeway at Maple Grove and so we purchased the property. Our original intent was to try to locate the Post Office in that area, which we were unable to get, but at the same time we recognized, because of the road reconfiguration, that there might be an opportunity. Since then we went to the City and got it rezoned to C-2, developed the convenience store, a self-serve carwash and then the Schucks Auto Supply. One of the reasons there is all that surplus of property to the east of those properties is that Schucks designed that so they could add onto their store. The excess for the carwash, we need that for the dry-off and the vacuums. The C Store was designed so they could expand out to the east. At the time we developed this commercial development, the only thing that was in our neighborhood was pastures so Black Eagle was a large pasture, the neighborhood to the east was residential. The only thing that existed in that whole corridor was the Chase Street residential. The current traffic counts at the intersection of Overland and Maple Grove roads today is 33,500 on Overland Road and 18,000 on Maple Grove. Equivalent intersections are Cole and Fairview at 30,000 and 22,000 on Fairview, State and Veterans’ Parkway is 34,000 and 28,000 on State Street so you can see that our intersection is probably one of the highest volume intersections in the whole county. The question is why do we have so much traffic on Overland Road? What you have to do is look at the big picture of why we have that much traffic. As you go east on the freeway, we’ve got all these access points, Broadway, Vista, Orchard, but when you get to Cole, between Cole and Eagle Road, the only access to the southwest is off that Cole and Overland access so all that traffic is either going south on Cole or it’s heading west on Overland. I think what we have is just the tip of the iceberg that as the Southwest develops all that traffic is going to come through there. One of the other things that happens is because we’ve got such limited freeway access, all the big box stores recognize the opportunity of that location so now our neighborhood has changed and we’ve got all these big box stores which compounds the problem of all this traffic because now we’ve got traffic generators, the Walmarts, the Lowes and the Edwards Theater. I’ve been observing real estate
development, particularly commercial development. One of the prime examples to watch has been Eagle Road. As Eagle Road went from a country road to a 5-lane facility, the first things that happened were all the commercial development that popped up on those major arterials. The first thing you notice is all the commercial development that went on the “going home” side. If you look at that development, all the primary development that happened on Eagle Road north of the freeway was on the east side, the “going home” side of the traffic. All the commercial development wanted to go there. Our property is located on the “going home” hard corner of that triangle. The next thing I will talk about is land use. What we have is a triangle. Maple Grove is to the west, Overland Road comes across the south and then I-84 bisects it so we create a large triangle. Staff showed an aerial, but the aerial only shows this much of the development. The neighborhood is C-2, C-1, C-3 and C-4. We have Walmart, Lowes, Edwards, Costco, all the commercial development across the street and then the large Black Eagle Development. The anomaly in our neighborhood is not commercial, but residential. I was staff if it was appropriate for the residential to have gone in when the Comprehensive Plan called out for the whole triangle to originally be commercial? Across the street we’ve got a Sonic Drive-In, Moxie Java and a Minute Lube. When the neighborhood was developed to the east of us, what they did, they had a choice to go ahead and purchase a home where all the commercial development exists, the C Store, the self-serve carwash and the Schucks were all in place before the houses came. I’m assuming it was a combination of price and location that brought that neighborhood there. But now what’s happened is the traffic on Overland has gotten to a point that when I worked with the Highway District, that Overland Road at some point in time is going to become a 7-lane facility. How they are going to deal with that right-of-way, but they know that potential is there. The problem with the L-O or N-O and a prime example of that is on the corner of Milwaukee and Emerald. If you go there there’s a Chevron Station on the northwest corner and there’s that little office complex that Winston Moore did back in the early 80’s that’s got those office buildings, single level, on the northeast corner. We know the client that owns the one on the northeast corner and what’s happened is it’s a location that’s got too much traffic. It’s got too much traffic for people to want to try and want to get to that little office building because of that traffic. As a comparison, the intersection of Milwaukee and Emerald is 26,000 on Milwaukee and 13,700 on Emerald. It’s probably about 2/3rd’s of the traffic that we have on Overland. Overland is only the tip of the iceberg. Reading through the staff report I was a little confused. On page 8, figure 8.1-2, it calls out in the Comp Plan on the Land Use Map that this land is designated as commercial. The other thing that he referred to is the combination of office, neighborhood, multi-family that should be built on the north side of Overland, but that only applied between the areas of Maple Grove and Five Mile. It didn’t include the triangle that we’re talking about. The other thing that I was a little confused about is it was also stated that we didn’t have a development agreement. In the original staff report, on pages 42 through 48, it’s got the original draft report that we had and it also has the exhibits that included the legal descriptions and the items that we had agreed to, and in your current staff report on pages 16 and 17 it’s got the revised amendments that we showed. I talked to Bruce about that knowing our first battle was to get the rezone and the second one was to fine tune our development agreement. Our background is multi-family so we’ve dealt with a lot of neighborhood compromises on how to make the transition between what we’re doing and what neighborhoods are. One of the big things is
traffic. The second thing is privacy so one of the things I talked I talked to our partner in this is that if we could keep this at a single level, a lot of times when you have a 2-story building that overlooks back yards, that is a large concern. The next thing that we agreed to was a dense landscape buffer that would be reviewed by Design Review. The third one was a 6 ft. high vinyl fence. That may be a condition, since there’s an existing wood fence, but I know that in our other developments by upgrading the buffering that we do it provides a nice transition for the neighborhood. The 4th item was the vehicular traffic access that we talked about. It was a fairly complex issue because one of the things that came out of the neighborhood meetings that we had was that their concern was that they didn’t want this commercial traffic coming onto Allante compounding the ability to get in and off of Overland. The other thing that we have is we’ve got kind of two parcels. We own the east parcel and our neighbor owns the west parcel. She still lives in an existing house that’s on the west parcel and so her concern is if we move the access to Overland, the Highway District gave us two choices. One would be to close off all the access points on Overland and take all of our access off of Allante. That is only conditioned that both parcels develop, so if we develop our parcel first, then the access points on Overland that provide access to that existing house will be grandfathered in. I reassured our partner that as long as she lived there that she would maintain her same access. The second thing was to provide the traffic pattern that the neighborhood wanted to close off the Allante access. What we would have to do is line up an access point at Hadley. But in doing that we’d have to close off all the access points, including we’ve got just to the east of there, a convenience store, we’ve got a full access point that feeds into the back of our carwash. That access point would also have to be closed off along with all the residential access points. To do that and for us to be able to still provide access to the back of our carwash, we’d had to provide a driveway through the front of her house. Her daughter’s got a little 3-year old girl and she was concerned about that point and so then I went back to the Highway District and said well can we do an and/or. As we do the first phase we’ll have an access point on Allante. Once Mrs. Moulton’s property develops we’ll close off all those access points, we’ll close off the Allante access point and then project just one access point on Overland. The other thing that that will do is it will provide a connectivity through and includes both the carwash, the Schucks and the C Store will all be tied in so we’ve got kind of an inner vehicle connectivity. If you look at our site plan on page 17, the other thing that I thought was kind of important to us, Mrs. Moulton’s got kind of a bowling alley parcel and so the other thing is knowing that we’d have to have some kind of fire truck access, we showed that we’d also provide some kind of future access at the top of her property so it would give the ability to develop that kind of bowling alley affect behind us. It was our intent that we’d like to potentially expand some of the services and our carwash, but I reassured Mrs. Moulton that this rezone and what we are doing wasn’t contingent upon us buying her property but as partners and getting this project put together. We don’t feel a transitional zone will work on our site just because of the traffic now and in the future. I think our rezone request complies with the Comp Plan. We want to protect the neighborhood and we’ve included in the development agreement, both buffering vehicular access issues, building height restrictions and a limitation on land uses. As far as the development agreement, if the Commission or the Council sees other things that we need to add to that, we’re more than willing to go ahead and compromise on those issues.
Kevin Merrell (1547 S. Allante Pl./Boise/83709) – My parcel immediately abuts the two parcels in question so the outcome of this proposal will have a direct effect on me and my family. As a resident of S. Allante Place and as the president of the Brentwood Homeowners Association, I’m here to urge the Planning & Zoning Commission to deny the proposal. As I noted in a letter, photos and a petition signed by everybody in our neighborhood, a commercial site at the mouth of our street would erode the quality of life in our neighborhood severely and exacerbate the frustration and the occasional danger of entering and existing Overland Road from Allante. As a neighborhood we hardly agree with our section Overland, receiving a Level of Service rating of ‘F’. Especially at rush hour, our daily experience of attempting to exit and enter Allante is a combination of waiting for the backed-up traffic and dodging on-coming cars entering the turn lane near our street. Please don’t contribute to the problem by okaying a proposal that would draw more traffic to our corner. We reject the suggestion by Mr. Tamura that because infill commercial development along Overland Road appears inevitable, that putting a business on our corner is a reasonable idea. Commercializing Overland in general and our corner specifically is not inevitable. Several years ago the neighborhood one street over from us to the east stopped a commercial development at the mouth of their street by Zamzow’s. We would point to the precedent of the Zamzow’s decision as evidence that unrestricted commercial development on Overland is not inevitable and should continue to be approached in a thoughtful manner consistent with the guidelines of the Boise Comprehensive Plan. We oppose the open ended nature of this proposal. Where Mr. Tamura and Mr. Southers initially showed us plans for an upscale auto lube shop for their property, the final proposal simply requested a change in zoning to C-2D opening the door to all sorts of undefined possibilities. To us that sounds like asking for a blank check and to our way of thinking a blank check doesn’t serve the public interest well. While I can appreciate the applicant’s wanting to gain a return on the investment in their property, the results of their proposal would be so out of harmony with the goals and the practical concerns of our neighborhood that I must ask the Commission to deny the proposal. In the spirit of compromise we would support a change in zoning to L-OD.

Commissioner Fadness – What is the average age of the homes in your neighborhood?

Mr. Merrell – About 10 years old.

David Southers (Applicant/PO Box 8245/Boise/83707) – I do think it’s important to note that both myself and Mr. Tamura together as partners or individually always try to come before you and staff with projects that staff supports. I don’t even remember the last time either one of us has been here when we didn’t, but we just differ on this issue primarily due to the traffic and what’s going on there. If we were all out there this evening, you just wouldn’t believe it if you hadn’t been out there see this traffic. It will back up all the way to Vinnell where you turn to go into Walmart. In our opinion from being in this business 31 years, it’s not going to make 15 cents worth of different what goes in here as far as creating additional traffic. Now we’ve got a thousand houses going in 2 miles south on Maple Grove. I’d like to also point out that this development is at Maple Grove and Overland, not Five Mile. We don’t feel this is going to be much more detrimental than what’s already there. I’d also point out that the elevations that were
submitted in the earlier application, that’s what the building is going to look like. They’ve not been withdrawn. The hours of the operation of the oil change place are much more compatible than a late night use. These guys have agreed to, and we didn’t get the time nailed down but we could in the development agreement, to open it later on the weekends and close it by 6 p.m. So it’s really more of a daytime use, not detrimental in the evening. I’d also note that on Mrs. Moulton’s piece, the long piece, that property’s 440 ft. deep so I think that the uses that are on the northerly section of that property, north half, will be softer uses. You won’t see any harsh retail. Our property off of Maple Grove is 290 ft. deep, so that’s about 300 ft. from Maple Grove plus it’s over 250 ft. from Overland so in other words you’re not going to have uses that are dependent upon visibility, identity exposure. High traffic retail occasions won’t be there. The market will take care of that.

Betty Bermensolo (Representing the Southwest Ada County Alliance/1970 Canonero/Boise/ 83709) – I’d like to thank staff for being as concerned about compatibility as we look at infill that is going to continue on Overland. I think that as long as we have a Comprehensive Plan that speaks to having transitional areas where you have a commercial build out and you have a very obvious, in our minds, area where it is currently zoned residential. It is not a commercial zone at this point. They are coming forward with a request for a rezone but it’s currently a residential zone and it’s coming in asking for a C-2. That has some pretty non-compatible uses next to residential. The Southwest Ada County Alliance very much would like to see office uses placed adjacent, any residential uses. Back in 2002 the City of Boise asked that neighbors, like the Southwest Ada County Alliance, come forward with a vision statement or a neighborhood plan. It’s pretty comprehensive, but the plan got caught up in other issues that were before the City and I will make sure that this Commission has a copy to look over. Not that it ever became hard and fast, but it’s an idea of what the Southwest felt was important. One of those concerns was that we preserve livability of areas that are going to be caught up in transitional growth, both on Overland and other areas in the Southwest. One of the policy statements was that we would like to have the ability of recommending and seeing that office uses go forward adjacent to any residential. We do know that the developer has in mind that because the traffic is certainly increasing on Overland that it’s been suggested by not just Mr. Tamura, but other developers that it’s going to be so bad. At this point they almost suggested that the neighbors that they have an opportunity to sell and move away when in all actuality many older people in some of these subdivisions like the one on Allante and the one on Chase, are elderly people. It’s convenient for them to get to services and they are not at a point and I’ve heard them speak directly to me about that of really picking up and moving. They just want a livable neighbor. I think that’s where we feel the Comprehensive Plan actually speaks to, having L-OD in existence to serve as a buffer to commercial. I think that might have been a reason why Mr. Tamura didn’t ask for C-2 back in 1986 for that area. It might have been just too much when at that time there was already a great deal of land in Century Landmark that was designated for commercial. I think that it serves for a very feasible L-OD. We do have examples on Overland of very successful, we have Times Square Subdivision. I don’t know if any of the Commission is familiar with the existence of the Times Square Office Subdivision or complex that is just west of the fire department. It became a very good neighbor. It’s gabled roof buildings that was well received by the neighborhood. I
really do feel that this will be important in setting the tone for other parcels that are going to come forward. We can constantly say it’s so bad, what’s the difference going with commercial as opposed to L-OD, but I trust that staff did his homework and I’ve heard from the Highway District as well that when you put an office use in as compared to a commercial use, a commercial use would be between two and three times greater in terms of trip generation from that use, than it would be from L-O. L-O is going to be a 9-5 neighbor and it’s the neighbor that we would feel is most appropriate for this parcel. I urge the Commissioners to maybe draw the line in the sand so that we don’t just have what happened on Chase Street just to the east of this when we had that nice little residential neighborhood that you see on the map and Zamzow’s was asking to come in into the street much like Mr. Tamura is asking for commercial. What the City ended up asking the developer to do was an L-OD and it’s become a very good neighbor. Those folks on Chase Street very much appreciate the fact that the City requests an L-O. I am speaking on behalf of the Southwest Ada County Alliance and I appreciate you keeping that concern in mind as we go forward with the development that I’m sure you are going to see before you.

Margaret Moulton (8886 Overland/Boise/83709) – I’ve lived there for 25 years and have seen a lot of changes. I’ve always assumed that since it was in the Comprehensive C-2 type of thing that that would be what I could do with the property. I’m not a young person. It’s not a family home. It’s not a family residence and it shouldn’t even be considered as a residence area. It’s atrocious out there; noise, traffic, airplanes, you name it. In considering selling it I’ve always been considerate of the people on Allante, however at the time that they went in there, that triangle was already established as commercial. All these commercial things were around there. I’m sorry that they’ve gotten themselves stuck in an area, but I don’t feel that those of us who have been there should be penalized because somebody made that decision. I think that there’s a horrendous over supply of office buildings, not only on Overland, but other areas and I don’t see that that would be any great benefit to anything. I could think of several things that could go in on this property that would not be offensive to the people living there. It’s going to take some thinking and work, but I certainly can understand their feelings and I would appreciate any consideration you could give to that.

Jennifer Blake (8886 Overland/Boise/83709) – I have kids and I hate living there. It takes forever to get in and out of our driveway. You risk your life every time you pull out and for anybody to say that it could be residential there, that’s just crazy. The homes on Allante are not 10 years old. I’ve been living in that home, I moved into it in 1977. I moved back into it in 1993 and the subdivision was started after I moved back in there. I agree with my mom. I’m sorry that they feel that it’s not fair to commercialize that. That whole triangle is commercial. Anybody who bought on that not realizing once that they expanded that to 5 lanes, that Overland Road was not going to become commercial from Cole Road all the way out to Meridian Road, that’s just not thinking straight in my opinion. My children, I worry terribly about them on that road. I agree with my mom. I don’t feel that as a homeowner of 25 years there that she should be penalized and not be allowed for that to become commercial when that’s what that whole triangle was designed to be. I just really hope that you will consider the rezone and it’s like we said, we want to work with the subdivision. We don’t want anything really outrageous put in
there. I can understand their feelings. Doug has come up with great plans on the buffer zones and everything. As far as the openings, there was one comment made that all those on Overland would be closed off and just Allante would be open. I hope that you don’t see that as ours would be shut off until we do something with our lot. It was stated that whole frontage would be closed off and that would not allow us any access whatsoever in or out of our property.

Commissioner Cooper – Could staff verify some confusion about what the Comp Plan really has for this area? Is Five Mile west or east of Maple Grove?

Mr. Eggleston – I stand corrected on Policy 2, Objective 13 in that did not apply here. It is good to note that the access on Overland Road shall be limited to non-residential uses.

Commissioner Cooper – So the statement about the properties on the north side of Overland between Maple Grove and Five Mile be developed with residential does not apply to this site, it’s west of this site?

Mr. Eggleston – Correct.

Commissioner Cooper – And the Comp Plan does say that the land use map identifies this site as commercial, is that true in the Comp Plan?

Mr. Eggleston – Yes.

Commissioner Ellsworth – Was there a zoning change to allow the residential to go in if this were zoned commercial or was that always a residentially zoned area in the Comp Plan? Was there a change that occurred at some point?

Mr. Eggleston – I didn’t research the Allante neighborhood. I just looked at the subject parcel. It hasn’t changed since the adoption of the Comp Plan, according to Mr. Spjute.

Commissioner Ellsworth – So it’s always been residential?

Mr. Eggleston – R-1A.

Commissioner Fadness – Mr. Tamura gave some examples of intersections where we have the limited office and because the intersection is so heavily traveled, people have a tendency to not to stop at heavily traveled intersections. Is that a generally accepted argument for not putting office in along heavily traveled intersections? Is that something that’s brought up in the Comprehensive Plan or is an argument that’s posed before/against limited office along heavily traveled streets?

Mr. Eggleston – We’re coming at an argument from an economic standpoint and a land use planning aspect. There’s no policy that I know of that that would say limited office is not
functional there, but as a practical means and like the example that Mr. Tamura used on Emerald and Milwaukee that for a small office, and I’d make the distinction in scale, a small, 1-story, 2-story office such as might occur here, may not be appropriate because they suffer from the same kinds of noise and traffic issues. When you go to a high-rise situation I think it’s a little different.

Commissioner Fadness – Would you say that the office complex at the corner of Chase and Overland is a smaller office or a larger office complex?

Mr. Eggleston – I think it’s a smaller office complex as far as the somewhat typical that might have been on the subject site.

Commissioner Wilson – There’s been a lot of talk about the intended uses, that there would be a lube shop in the front of the subject property and then some other undefined retail towards the back. In the development agreement itself, is that a use that is tied to at this time as far as the lube shop and is it just the retail that’s open ended? What parts of the development agreement are tied down and what parts are open-ended?

Mr. Eggleston – The material given to me last Tuesday, Mr. Tamura and I sat down and took a look at the table in the C-2 section of the Zoning Code. He eliminated around a dozen uses that would be less compatible. But as far as the car and any kind of major auto repair use, it would require a conditional use permit in the C-2D zone. A minor repair shop would be an allowed use. I think a lube shop would be a minor repair shop and would be an outright allowed use with Design Review.

Commissioner Wilson – Then this page 31 of 74 that you looking at, Table 3?

Mr. Eggleston – Exactly.

Commissioner Wilson – Some of these uses have been crossed out like bikini bar, composting facility, firing ranges, etc., but for the repair shop “major” has not been crossed out so “major” or “minor” would be allowed then?

Mr. Eggleston – Correct, in this current proposal.

Commissioner Cooper – On the site plan that has the actual building footprints on it, if this is a commercial development, what sort of commercial businesses would go at the two back locations that have so little visibility on the site?

Mr. Tamura – We could see compatible uses with the carwash like a detail shop, more 8 to 5 types of uses. The other thing that we could see was maybe storage. The other thing that was difficult about trying to develop the site plan is that we also own the vacant lot next to the C Store. One of the thoughts that we had is that since our C Store is already zoned commercial, it
didn’t make any sense that the development agreement would encompass the transition of how those two properties could work together, but I also told Mrs. Moulton that it seemed like the obvious thing is because she’s got such a large skinny parcel, that whatever development would go there would … combine our property with her property. That’s why I was so hesitant about trying to develop a site plan. What this is going to show is the buffering that we want to provide, the locations of where buildings could be, the landscape issues, fencing and the overall vehicular circulation of how this site could work. Not knowing what could happen with the parcel to the west, it was just our best guess. I think we are pretty close because of the limitations we are putting on it. If you have some other uses that you think would be too onerous for this neighborhood, we’d be more than happy to consider those things. Knowing that our lube shop was automotive and where that cutoff is between major and minor, I don’t see any kind of automotive uses. Probably the most obnoxious use would be a C Store, but it’s already there. The obvious thing that I could see on her parcel would be food. If it’s fast food, again it’s a conditional use that’s got to come back through so there’s some protection to the neighborhood. If there’s other things that you think we need to add to our development agreement, we’d be more than happy to consider that. We can go to our client that wants to do the lube shop. We could put a more concrete footprint. I re-sketched what his original submittal was we met all the setbacks and access issues that the Highway District and the neighborhood wanted. He hasn’t given us a final blessing but I think we’re close. If we need to come up with a final plat before City Council we’d be happy to include that in our development agreement so that at least the first phase is pretty much cast in stone.

Commissioner Orman – Has anyone considered a mixed commercial in the frontage with L-O or something similar in the back? Has the applicant considered a C-1 or C-2 from the mid-point of the driveway to the south and an L-O to the north since it’s not an ideal retail spot but it would give you a buffer for the houses.

Mr. Tamura – On the aerial map I outlined it so you could visualize how those colored zones match up with what’s exactly built. What this is is two giant office parks and what we have is kind of a supply and demand. On top of having a poor location because of the traffic if we were limited office, we also have huge supply of office space in the area. Black Eagle’s got buildings that have been vacant for 2 or 3 years. For us to think that we would potentially have a better location because of where we are at, I don’t think that’s going to happen. I think our best chance is that something that ties in together. Another use that I could see is if we had a nice restaurant. That long skinny part could become parking. That’s one of the things that I thought about. It’s too hard for us to tell what that is, but it’s going to take someone that really appreciates all that traffic there which I don’t believe is an L-O use.

COMMISSIONER RUSSELL – I WILL MOVE TO APPROVE CAR06-4.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.
Commissioner Russell – In listening to the testimony, particularly to the lady that owns the large, skinny piece of the property, I agree that this is just an ideal spot for a C-2 zone. I think that the amount of people that flow through that area on a daily basis just does not warrant itself for limited office space. I think if I were looking for office space that would be the last place I would go because of the inability to get in and out of it. I think it’s going to be better for a facility or establishment that people really need to get to for a quick lunch or lube, etc., something that warrants people not getting out of their car for long periods of time. I think that looking through all the allowed and conditional use items in the code that could be put on this property in the C-2 zone, there’s nothing that really concerns me very much and the things that maybe have a slight concern have to go through the conditional use process so I think we’ll have another opportunity to look at it then. I don’t know the history of the residential property and I for sure can see the concerns that the residential folks have that are in that area, but it sounds like those homes have been there somewhere in the ballpark of 10 years. I think it was pretty apparent 10 years ago that Overland was a pretty booming place and things were going to be spreading out that way and it was going to be a pretty major thoroughfare that was going to have a lot of commercial facilities on it. Although I do understand why folks in those residences might be a little bit concerned about this, I think it’s probably, considering the triangle that keeps getting spoken about and all the other uses that are out there on Overland and the excessive traffic that’s already in existence, I just don’t see this as making any more significant impact on those homes. I’m for the approval of this rezone.

Commissioner Ellsworth – Listening to the arguments that were made tonight, I think that the developer won the day as far as I’m concerned. His argument that limited office is not the right use I’m in agreement with. I think that there is an abundant amount of office space that’s in that area and to try and compete with that on a flag lot in the back, I just don’t see that as workable. I think there’s probably a better way to do it. I am concerned about the neighborhood. It’s kind of an unfortunate situation. I do see the land use map, in looking at this area, as commercial. I would like to see the development agreement tightened up and I’d like to see the City do a good job at going through those allowed uses and striking off the ones that are least compatible with the neighborhood to the east. In this development I think there is a way to put some buildings that are back there that maybe storage or a detail shop like the developer pointed out that are quieter uses and do transition into the neighborhood. I don’t think that just because it’s a C-2 we can’t accomplish that through thoughtful design.

Commissioner Cooper – I’m going to support the motion although I wasn’t sure when we started out tonight which way I was going to go. I actually think that the Comp Plan, and if we’re looking for findings, I think maybe the Comp Plan really doesn’t really support the L-OD. It really has commercial in this location and while I’m always for mixing residential, office and commercial so that we don’t have the awful traffic problems that we have, I think it’s probably too late for this area. The residential that’s here is really small and isolated and struggling.

Commissioner Wilson – I’ve been back and forth on this and after listening to everybody I think I’m not going to support the motion. It’s because that I think that this development agreement
needs to be much tighter and I don’t think that just directing staff to make it much tighter when it comes back with reasons for the decision is enough. I think that we need to either go to a C-1 or go through more carefully and eliminate those uses. While I agree that you’re not going to be able to support office at this location just because of the abundance of office space nearby, I also agree that the traffic out there is pretty horrendous. I think that we do need to be more sensitive to stripping out Overland and not just say we already have commercial here so let’s go ahead and go commercial all the way. I recognize the Comp Plan is calling for that triangle to be commercial, but I’m also looking at the existing neighborhood and looking at what’s there on the ground now. I think that allowing a more open ended commercial in this area isn’t the way to go but if we can tighten it up quite a bit, then I think that it could be workable with what’s there on the ground right now.

Commissioner Ellsworth – So we deny it or do we tighten it up and can we take another look at it?

Commissioners Wilson – I’m not sure how much staff can change it if we approve it tonight.

Ms. Mary Watson (Legal) – Commissioner Wilson has it right. If this gets approved but you direct staff to tighten up the development agreement essentially you’ve approved what’s in front of you tonight and they are not going to have a lot of leeway absent the applicant’s willingness to be gracious to change the development agreement as far as restricting other things. What’s in front of you right now is a development agreement that has that list with certain things crossed off, but that’s where it’s at. You need to either tighten that up on the record tonight, take a little bit of time to look at that, and go with approval with restrictions on that list. I’d also like to draw your attention that the findings are on page 5 of the staff report. If you could say some certain statements that go with those findings that you need to find tonight if the route is approval.

Commissioner Fadness – I don’t think Commissioner Russell has yet had the opportunity to comment on his original motion if he feels the development agreement should be tighter tonight and if it is what specifically he would propose.

Commissioner Russell – I’ve looked through the allowed and the conditional uses in the C-2 zone. I’ve looked at the ones that have been crossed out and I will read them for the record: bikini bar, bottling and distribution plant, bus station, composing facility, indoor & outdoor firing ranges, golf course, driving range, missions and food kitchens. The way I understand it, per the development agreement those wouldn’t be allowed. Looking through the remainder of the list, there’s uses that are either allowed or they are conditional. I feel comfortable with all the allowed uses and anything that is conditional is going to have to come back up here before us so I feel comfortable with those as well. I don’t feel that we need to restrict any more of the uses than they already have been with the development agreement. As far as the findings go, I feel the Land Use Map does support this use and I feel that per the Zoning Ordinance, obviously there’s a definition for a C-2 zone that they are going to have to meet as they move forward.
feel that this zone is the intent of the Comprehensive Plan and we can allow this zone with confidence.

COMMISSIONERS IN FAVOR OF MOTION TO APPROVE THE REZONE: ELLSWORTH, COOPER, RUSSELL & ORMAN.

COMMISSIONER WILSON VOTED AGAINST.

MOTION FOR APPROVAL CARRIED 4-1.

Planning & Zoning Commission Minutes of April 17, 2006 – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of April 10, 2006 – COMMISSIONER RUSSELL MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
May 8, 2006

Commission Members Present
Gene Fadness/Chairman, Brian Ellsworth, Doug Cooper, Andy Brunelle, Doug Russell, Amber Van Ocker, Lauren McLean & Tony Orman.

Staff Members Present
Angela Wood, Susan Riggs, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Withdrawals

DRH05-00436/Fred Fritchman
Location: 1314 Euclid Ave.
APPEAL THE DESIGN REVIEW COMMITTEE’S APPROVAL TO CONSTRUCT A 2-STORY, 1,950 SQ. FT., SINGLE FAMILY DWELLING UNIT ON A SUBSTANDARD LOT LOCATED IN AN R-2D ZONE.

Deferrals

CUP06-000035/Charter Builders, LLC.
CVA06-00011/Charter Builders, LLC.
CFH06-00013/Charter Builders, LLC.

COMMISSIONER VAN OCKER MOVED TO DEFER THE ABOVE 3 APPLICATIONS TO JUNE 5, 2006. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CAR06-00004/DA/Doug Tamura
Location: 8880 & 8886 W. Overland Road
APPROVAL OF NEW FINDINGS FOR THE DEVELOPMENT AGREEMENT.
CUP06-00038/Joanne G. Hoppe  
Location: 4301 W. Hill Road  
CONSTRUCT A PUD CONSISTING OF 2 UNITS (1 EXISTING & 1 NEW) ON 1.73 ACREs IN AN R-1C ZONE.

CUP06-00027/Scott Edwards  
Location: 3219 W. Targee St.  
CONSTRUCT AN INFILL PUD OF 9 UNITS ON .64 ACRES IN AN R-2D ZONE.

CUP05-00144 & CVA05-00038/Neal & Mary Ann Martini  
Location: 1915 N. Allumbaugh  
CONSTRUCT AN INFILL PUD OF 9 UNITS ON 1.002 ACRES IN AN R-1C ZONE WITH A VARIANCE FROM THE BUILDING SETBACKS.

SUB05-00095/Martini Subdivision  
Location: On the west side of Allumbaugh south of Northview & west of Raymond.  
10-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00026/Imagine Subdivision  
Location: On the northeast corner of Shamrock & West Ustick Rd.  
2-LOT SUBDIVISION.

SUB06-00027/Paradigm Condominiums  
Location: On S. 5th St. between Front and Broadway  
99-LOT, MULTI-FAMILY CONDOMINIUM SUBDIVISION.

SUB06-00029/Herar Estates Subdivision  
Location: On the north side of Boise Ave., east of Old Oak Avenue  
5-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00031/Pilot Place Subdivision  
Location: On the southwest corner of Pennsylvania & Parkcenter Blvd.  
4-LOT, COMMERCIAL SUBDIVISION.

CUP06-00028/Bayshore Oil Co.  
Location: 555 W. Parkcenter Blvd.  
OPERATE A PRE-SCHOOL AND PRIVATE GRADE SCHOOL (AGES k-6) IN AN EXISTING BUILDING IN AN L-OD ZONE WITH A PARKING REDUCTION.

CVA06-00008/Bayshore Oil Co.  
Location: 555 W. Parkcenter Blvd.
REQUESTS A VARIANCE FROM THE MAXIMUM ALLOWED FENCE HEIGHT OF 6 FT. TO 8 FT. ALONG LOGGERS CREEK IN AN L-OD ZONE.

CHF06-00012/Bayshore Oil Co.
Location:  555 W. Parkcenter Blvd.
REQUEST A BOISE RIVER SYSTEM PERMIT TO MAKE MINOR MODIFICATIONS TO AN EXISTING BUILDING AND SITE WITHIN THE RIPARIAN SETBACK AND WATER AREA ADJACENT TO LOGGERS’ CREEK IN AN L-OD ZONE.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF ALL THE APPLICATIONS LISTED ON THE CONSENT AGENDA BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORTS.

COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00017/DA/Paul Ralphs
Location:  10500 W. Milclay & 3372 N. Five Mile Rd.
REZONE .487 ACRES FROM R-1C TO N-OD WITH AN UPDATED DEVELOPMENT AGREEMENT.

Staff presentation was waived. Applicant present & concurred. No public testimony.

COMMISSIONER VAN OCKER MOVED TO CAR06-17 WITH THE MODIFICATIONS TO THE DEVELOPMENT AGREEMENT.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – This rezone seems to be appropriate. It’s a change to an N-OD zone which is appropriate considering the properties surrounding this. It will be a good transitional area and it is in a Design Review Overlay zone so I think we’ll end up getting our compatibility that we’re always looking for.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CAR06-00019/DA/William R. Smith, LLC.
Location:  6401 S. Eisenman Road
REZONE 1.69 ACRES FROM C-4D TO M-1D/DA.
CUP06-00039/William R. Smith, LLC.
Location: 6401 S. Eisenman Road
CONSTRUCT A 19,884 SQ. FT. OFFICE/WAREHOUSE BUILDING IN A PROPOSED MK-1D ZONE.

Staff presentation was waived. Applicant present & concurred. No public testimony.

COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-19 ALONG WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL AND FINDINGS OF FACT.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – This is rezone from C-4D to M-1D which is consistent in this area with our Comp Plan. There are properties out there that are being used in a similar fashion so I think this rezone is appropriate.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP06-39 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL AND FINDINGS OF FACT.

COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
June 5, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Amber Van Ocker & Tony Orman

Staff Members Present
Carl Miller, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Withdrawals
CAR06-00014/Therrin D. Robertson
SUB06-00020/Therrin Condominiums
CUP06-00040/Mark Russell

Consent Agenda

CUP04-00127 & CVA04-00047/Time Extension

CUP06-00041/Gateway Office Buildings, LLC.
Location:  2215 W. State St.
REQUEST A SPECIAL EXCEPTION TO UTILIZE AN EXISTING RESIDENTIAL BUILDING FOR AN OFFICE USE IN AN R-2 ZONE.

SUB06-00032/Danner Subdivision
Location:  On the east side of Ashpark Lane south of Ustick road
SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00033/Goose Creek Condominiums
Location:  On the south side of State Street at Lake Harbor Lane.
MULTI-FAMILY RESIDENTIAL SUBDIVISION.

COMMISSIONER COOPER MOVED FOR APPROVAL OF THE APPLICATIONS ON THE CONSENT AGENDA BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED WITH
COMMISSIONER ORMAN ABSTAINING FROM CUP06-00041 DUE TO A CONFLICT OF INTEREST.

Regular Agenda

CUP06-00035/Charter Builders, LLC.
Location: 444 E. Parkcenter Blvd.
CONSTRUCT A PUD OF 80 RESIDENTIAL UNITS ON 2.95 ACRES IN AN L-OD ZONE WITH A REQUEST FOR A HEIGHT EXCEPTION.

CVA06-00011/Charter Builders, LLC.
Location: 444 E. Parkcenter Blvd.
REQUEST TO CONSTRUCT AN UNDERGROUND GARAGE WITHIN THE GREENBELT SETBACK IN AN L-OD ZONE.

CFH06-00013/Charter Builders, LLC.
Location: 444 E. Parkcenter Blvd.
CONSTRUCT A RESIDENTIAL PUD WITHIN THE FLOODPLAIN AND FLOODWAY IN AN L-OD ZONE.

Carl Miller presented the staff report with a recommendation of approval.

Steve Pavelek (Applicant’s Architect/2238 Broadway Ave./Boise) – Concurred with the staff report. Explained the design aspects of the project.

Rob Tiedemann (Applicant’s Representative/Ecological Design Inc./217 N. Walnut/Boise) – Engineered the project in relation to compliance with the Boise River System Ordinance regarding fish habitat and riparian vegetation to support the fishery.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP06-00035 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH THE MODIFICATION OF THE DELETION OF THE HEIGHT EXCEPTION REQUEST.

COMMISSIONER ORMAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE CVA06-00011 BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED WITH COMMISSIONERS BRUNELLE AND WILSON VOTING AGAINST THE MOTION.
COMMISSIONER VAN OCKER MOVED TO APPROVE CFH06-00013 BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORT.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE CHF06-00014 BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORT.

COMMISSIONER ORMAN SECONDED AND THE MOTION CARRIED WITH COMMISSIONER BRUNELLE VOTING AGAINST THE MOTION.

DRH06-00027/The Depot Bench Neighborhood Association
Location: 110 S. Peasley Street
APPEAL THE DESIGN REVIEW COMMITTEE’S DECISION TO UPHOLD THE ADMINISTRATIVE APPROVAL OF A REQUEST BY MICHAEL & ANGIE WOOD TO CONSTRUCT A SINGLE FAMILY RESIDENCE ON A SUBSTANDARD LOT OF RECORD IN AN R-2 ZONE.

Commissioner Wilson recused herself from this application as she was a member of the Design Review Committee at the time this application was heard.

Cody Riddle – The item before you is an appeal by the Depot Bench Neighborhood Association of the Design Review Committee’s decision to uphold an administrative approval for the construction of a single family residence on a substandard lot of record at 110 S. Peasley Street in an R-2 zone. At the April 12th hearing, the Design Review Committee did deny the appeal of the administrative approval and minutes from this hearing have been included in your report. Pursuant to Boise City Code, Section 11-03-07.04 and .05, the Commission may overturn the decision of the Design Review Committee only if it is determined that that decision was made in error. The appellant has contended that the Committee’s decision to uphold the administrative approval is in conflict with the Boise City Zoning Ordinance, and more specifically, the emergency ordinance related to development on substandard lots of record. Several grounds for the appeal were included. The first item of appeal was that 2-story buildings are discouraged and this structure is 2 ½ stories as well as a basement and that the plan includes a basement with light wells that makes an extra 1 ½ stories even less necessary since the structure essentially has 3 ½ floors. Section 11-03-09.03 does read that full-length 2-story buildings are discouraged but may be allowed in some circumstances. Circumstances to be considered shall include mass, height, window placement and design, and adjacent property design and layout, privacy of adjacent lots. At the April 12th, 2006 hearing of the Design Review Committee, staff did suggest that the upper level living space could be removed to bring the project more into conformity with ordinance standards. The Committee, however, found that the design to be appropriate for this site and
sensitive to the neighborhood. Committee Member Lee stated: “The height of the structure doesn’t bother me at all. Even though we have 1-story structures in the area for this particular site, this particular building design, I think the higher more vertical design simply works and I think that a lower design wouldn’t necessarily work as well. I think this has been a difficult project, a difficult site and this is a creative solution, a workable solution and I think it is different than skinny houses that have appeared.” Committee Member Salathe also stated: “I think the architect did a great job with the roof lines and was sensitive to the neighborhood.”

The second item for appeal relates to the front setbacks. Front setbacks, under the Emergency Ordinance, were required to be similar to adjacent residences. The applicant admitted that this was 20 to 25 feet and staff indicated that that adjacent setback was 15 ft. In any case they shall never be less than 15 ft. The setback in this case did have a 3 ft. encroachment for the porch and other features. There was some additional documentation there related to that setback requirement. There was quite a bit of discussion at the Design Review hearing and the emergency ordinance did indicate that front yard setbacks should never be less than 15 ft. However, the Design Review Committee, after consulting with Legal, found the encroachment of the front porch to be consistent with the Zoning Ordinance requirements. The Emergency Ordinance did not specifically address encroachments and Section 11-04-04.03B allowed balconies, porches, bay windows and similar features to encroach 3 ft. into the required front yard setback. Committee Member Lee did state: “I think legal counsel is getting it right that the City Council didn’t intend to blow out the traditional exception to allow balconies to encroach 3 ft. Frankly I would rather see it approach the 15 ft. setback than to push it back further having an even more unusual, difficult, substandard shape, unusual building.” The next item for appeal was that there may be a problem with other setbacks in violation, Section 11-04-04.03. The appellant did not give any additional information on the grounds for appeal. Staff reviewed all setbacks and found them to be in compliance with ordinance standards. The next item is that the building, as proposed, is not consistent and conflicts with structure design objectives in Section 11-07-03.02A&B. The appellant contends that staff itself found the mass to be very different from surrounding buildings. It found the existing buildings are small, single story structures. The appellant also stated that Clark’s development proposal for Peasley Street has 2-stories with detached sidewalks and a 20 ft. setback. Staff and Design Review said this is not relevant, but the Crescent Rim project is certainly a surrounding building. Staff’s original analysis of the project, it was stated that the building mass was very different from surrounding buildings in that the difference was really due to the size and configuration of the lot. The lot that is the subject of this application is very small, and to obtain any sort of a useable structure, some height must be given to the building if the applicant wishes to meet all the dimensional requirements of the ordinance. At the Design Review hearing staff suggested that the upper one-half story could be removed to bring the proportions of the façade and the massing more into consistency with the neighborhood, but the committee again found that the design, as proposed, met ordinance requirements. Committee Member Lee stated that this ordinance talks about 2-story buildings being discouraged but may be allowed in some circumstances. He went on to say: “I think this is one of those circumstances where it’s appropriate for this particular neighborhood.” Regarding the comparison to the Crescent Rim project, the Committee found no error in the administrative approval as it relates to the compatibility of the proposed single family structure
and the Crescent Rim project or the other structures in the vicinity. While the Crescent Rim project is located within the vicinity of the site, it is a multi-family residential project in a different zoning district on a much larger site. The next item for appeal, I’d like to refer you to pages 51-57 of this report. The appellant contends that there may be an issue regarding the loss of historic right to develop under the plat, or waiver of such right, based upon title history. That the history of lot 21 is not part of the record and has not been through the same approval process as lot 20, which is part of the record. Both of these lots are remnants of once existing full lots and there’s no proof regarding lot 21 in the record. In a letter dated May 20, 2004, included in your packet, the Boise City Subdivision Staff confirmed that the parcel in question was created prior to August 16, 1965, and is therefore considered an original lot of record. The parcel was created by Quit Claim Deed, recorded on August 3, 1956. According to the recorded deeds that have been provided to you, the parcel consists of a portion of Lot 20 in Block 5 lying west of the railroad right-of-way located in Rosehill Subdivision. There was no reference to Lot 21 in any of those deeds and the appellant has submitted no further information regarding this appeal item. The next item for appeal is that there’s no place for parking or even limited street parking. Because there is a stop sign in front of the property, too many shortcuts are being taken in order to build this structure. Section 11-03-09.8 states that garages, carports and all accessory buildings shall be prohibited in front of the residential structure. Since the parcel has no alley access and the lot is not wide enough for a driveway to enter the rear of the property, the applicant was not required to provide parking on the site. One of the purposes of the emergency ordinance was actually to prevent parking in front of the house on substandard lots. Given the constraints of the site, it would be physically impossible to accommodate side or rear yard parking. Staff recommends the decision of the Design Review Committee be upheld if the Commission believes a reduced mass and height is appropriate. The applicant and staff did discuss options to reduce both at the Design Review hearing. If the Commission should choose to support this appeal and deny DRH06-27, staff recommends that direction be given to return with findings for denial at the next scheduled Planning & Commission hearing.

John Gannon (Representing the Depot Bench Neighborhood Association, the Appellant) – I will be presenting one part on the lot. Linda McCarthy will be talking about the height. Mary Hobson will be talking about parking and encroachment. I believe there are 2 or 3 other members of our group who would like to speak during our time who will comment on matters that are pertinent.

Commissioner Fadness – Were these folks who all spoke at the Design Review hearing?

Mr. Gannon – No, just myself, Mary Hobson and Mr. Thompson spoke on behalf of the Association, but these other people would be speaking on behalf of the Association also.

Commissioner Fadness – I want to consult with Legal. I don’t know whether because they didn’t if they could or if it’s part of the applicant presentation if they can.
Mary Tyree (Legal) – If they are using the 30 minutes that the appellant has been designed, if they are speaking on behalf of that association, they can speak because they are representatives of that association. They don’t get independent time outside the 30-minute window.

Commissioner Fadness – Even those that did not testify at the DR hearing?

Ms. Tyree – Correct.

Mr. Gannon – The parcel we are talking about is parcel #R7569750300. That’s the parcel number referred to in the original application. It’s the parcel number that was considered by Dave Abo in the 2004 subdivision letter which begins on page 51 of your packet and it’s referred to other times. Page 46 of the staff report has the Assessor GIS land records. As you can see the total acres of this particular parcel is .01 or 1/100th of an acre as described by the Assessor for this parcel and the property description is Lot 20 of Block 5 of the Rosehill Subdivision. The latter reference to Lot 20 is in accord with what staff just stated in their presentation. Page 52 through 54 is the deed that Mr. Abo used in reaching his conclusion regarding Lot 20. You’ll see at the bottom of the first page of that deed, it’s a 2/3rd’s undivided interest in and unto Lot 20 of Block 5 in the Rosehill Subdivision. This is on page 53 in your packet. Page 54 is the … part of the deed and you’ll see that Lot 20 of Block 5 is the only lot that is referenced in that deed on page 53-54. The Quit Claim deed is on page 57. This is the deed that is also in Mr. Abo’s consideration and this Quit Claim deed from Ada County is for Lot 20 of Block 5 of the Rosehill Subdivision. Mr. Riddle did cover his response to our concern in #6. The association agrees with his response, that is that the only parcel or the only lot that is under consideration for this parcel is Lot 20, Block 5 of the Rosehill Subdivision. So what is Lot 20 of Block 5 of the Rosehill Subdivision? This subdivision map is found in your packet, page 9, and you’ll see where the triangle is you’ll see a ‘24’ so you count back 23, 22, 21 to 20 and you’ll note that these are 25 ft. wide lots. These are platted lots, 25 x 125 ft. So Lot 20 is 25 x 125. The design of this house is 20 ft. wide. There is no way that this 20 ft. wide house is going to fit onto Lot 20. Early on in these proceedings and several times, there was talk about Lot 21 coming from us. But it’s very clear that Lot 21 doesn’t have anything to do with this application. Lot 20 is the only one that is the substandard lot of record that was approved by Mr. Abo in 2004. Lot 20 is the only basis upon which they’ve come forward with this project. This design does not fit on Lot 20. It’s 20 ft. wide in the front. There’s no way it can comply with the 5 ft. setbacks.

Linda McCarthy (Representing the Depot Bench Neighborhood Association, the Appellant/3415 Meadow Dr./Boise) – I would like to see this house more compatible to the neighboring single-story houses, that’s my main concern. The staff seems to be concerned also because they have said that the building mass is very different from the surrounding buildings. The height to width relationship of the new structure is also very different from the architectural character of the area. The existing buildings are short and wide while the new structure is very tall and narrow. It appears that the staff has been uncomfortable with this project and even Sarah Schafer said in her appeal report of April 7th on page 26 that in order to bring the project more in conformance with the surrounding properties, the half story that is proposed could be removed and all livable space
could still be maintained. This could reduce the overall height of the building to 27 ft. to ridgeline or 24 ft. as measured by ordinance standards for height. She then went on to conclude on page 28 that the staff believes that some of the appellant’s concerns could be addressed with the removal of the top half-story of the project. This would bring the proportions of the project more in conformance with the structures in the surrounding area. So, let’s make this house 2 stories if we can.

Mary Hobson (Attorney Representing the Depot Bench Neighborhood Association, the Appellant/3411 Morris Hill Road/Boise) – I want to discuss the Design Review’s decision as it pertains to parking and the interpretation of the Emergency Ordinance. At the hearing on April 12th, staff stated that it has been the determination of the Planning Director that because parking is not allowed in front of a structure under the Emergency Ordinance, parking is not required for a substandard lot where there is no alley access. Committee Member Wilson, in her remarks on the transcript stated that she found this to be a: “Loophole that runs contrary to what the City was trying to accomplish with the ordinance.” But it is not a loophole. I submit to you that it is an erroneous legal interpretation. While the Emergency Ordinance contains some language that would suggest that only the Emergency Ordinance controls the development of substandard lots, on its face it also incorporates code section 11-04-04.03 as well as other provisions. That language is there for a reason. The Emergency Ordinance by itself does not answer the question whether parking is required. In fact it is absolutely silent on whether parking is ever required under any circumstances. It makes no reference, for example, for parking where there is alley access and it certainly does not state anything like parking will not be required for substandard lots. That language simply is not there. If you are going to answer the legal question as to whether or not parking is required, you have to look beyond the Emergency Ordinance and to the other sections that it explicitly adopted such as 11-04-04.03. That section states that all standards generally applicable to residential and commercial units, which would certainly include parking requirements, apply to substandard lots, and 11-04-04.03 is replete with references to parking requirements, including the alley access provisions that the Director obviously believes still apply under the Emergency Ordinance. The only impact the Emergency Ordinance has on 11-04-04.03’s parking requirements was to eliminate that provision that explicitly permitted parking structures between the front parking setback and the front façade, and that’s the only impact the Emergency Ordinance has on that particular ordinance which otherwise requires parking. The staff’s position seems to be, and we heard it this evening, that since this lot is so small and there is no place to put parking, it is not required. But that argument obviously begs the ultimate question that you need to decide here and that is is this a build able lot. You can find that it is only if you find that all the requirements for a residential development have been met. To say that the City will enforce those requirements only if the lot isn’t too small to accommodate them makes your process and frankly the ordinances meaningless. The purpose of interpretation of the ordinance is to get to the intent of the city in adopting it. I cannot imagine that anyone seriously suggests that it was the intent of the City, in adopting the Emergency Ordinance, to eliminate parking requirements for residential houses. In fact, if you look at the ‘whereas’ clauses that preceded the adoption of the Emergency Ordinance, you will see that inadequate parking in some of these structures was one of the specific concerns that the
ordinance was designed to address. You will agree with me that the Emergency Ordinance was adopted to curb abuse of substandard lots, not to make development on these lots easier and less in compliance with the standards that would otherwise apply to standard lots. On the subject of the size of the lot, I would simply like to point out that the design that you have presented by the architect on behalf of the applicants, the reason that we say it doesn’t fit is because, as Mr. Gannon pointed out, is the 20 ft. wide lot, the design that you have, if you look at your design, it assumes that there is 42 ft. of frontage there and so that is our big discrepancy, is the difference between the 25 ft. lot and the 42 ft. designed parcel that you have in front of you. Obviously the applicant believes that they own more than Lot 20, but there’s nothing in the record on that point and so I’m trying to get you to focus on what are going to be the requirements for this lot and is this really a build able lot. I would also like to make one more observation about the relationship between the Emergency Ordinance and the 11-04-04.03. The latter provision in Subsection B was cited by Design Review as permitting the porch and balcony to encroach into the 15 ft. setback. But that provision, that subsection of 11-04-04.03 like that part of that ordinance that allowed parking in the front of the structure was specifically superseded by the Emergency Ordinance. You know that because it says: “Front yard setbacks shall be similar to adjacent residences; however a front yard setback shall never be less than 15 ft.” There’s nothing ambiguous about the term “never.” Again, the Emergency Ordinance supersedes 11-04-04.03 where they contradict each other and otherwise they must be read so that the provisions of both of them can be given effect. The language in the Emergency Ordinance on setbacks is clear and it’s mandatory. The City intended to prohibit building on substandard lots that are closer to the street than neighboring houses, but it also intended, even where the existing setbacks are themselves substandard, that the infill development will be no closer to the setback than 15 ft. That’s very clear. Staff indicated that there was nothing, that we provided no information on our other encroachment issues. If you will notice, and I raised this when I testified at Design Review, is we go to the side of this building on two sides you see porches and in the case of what is on the left-hand side as we look, on the triangle side, you will also see a rectangular piece that sticks out roughly 2 ½ feet from the side of the building. If you look on slide 3 you will notice that that rectangular encroachment is 2 stories tall. There is no ordinance cited that gives encroachment possibilities in side setbacks, nor can that possibly be construed to something that is less than a foot in height which is what we were told originally because it appears on two levels of the building. What we have here is a 5 ft. minimum setback that is being encroached upon by something that appears to be connected with the placement of a fireplace. For these various reasons we believe that this is a non-build able lot. It’s simply too small. The tax assessor has told us it’s .01 of an acre. That’s approximately 420 sq. ft. The applicant tells us they’ve got 1,500 sq. ft., but they don’t at least not on Lot 20. They have 420 sq. ft. and they cannot build, even this design, in that space.

Kathie Garrett (Representing the Depot Bench Neighborhood Association, the Appellant/3227 Crescent Rim Dr./Boise) – As a State Legislator I represent District 17, the Central Bench Area. There are 7 very active neighborhood associations in District 17. Common to all 7 associations is the concern over infill and that it needs to be done within a manner that protects the nature of the existing neighborhood and its compatibility with the houses around them. All associations
express to me their concerns regarding substandard lots and the so-called skinny houses. This is not just a Depot Bench issue. I hear it frequently from all associations in my district. I know a lot of hard work had gone into addressing the issues of infill, but once again we are faced with a situation in the Depot Bench area where the proposal does not fit the surroundings and again my neighbors are being asked to endure a home that will tower over the adjacent homes. This substandard lot is not large enough to accommodate this house. There is no off-street parking or a garage. Once again traffic and safety concerns of the neighborhood are not being adequately addressed. I serve on the Depot Bench Traffic Committee to help mitigate the increased traffic of the car development will generate. Peasley Street has been one of our big concerns. Now because of a loophole found in the emergency standards for skinny houses, a home is being considered by you that has no room for off-street parking. In my opinion this in total disregard of the neighborhood and their parking needs and their safety. It is in total disregard of the safety of the surrounding area that must use Peasley as a main entrance and egress into the neighborhood. I use that street on a daily basis myself. This project is not compatible to the surrounding houses and with its 2 ½ or 3 stories; it will tower awkwardly above the neighbors.

Jim Borchers (Representing the Depot Bench Neighborhood Association, the Appellant/3107 Crescent Rim Dr./Boise) – The question has arisen that in the original plat we have a 25 ft. wide lot here. The question arises is that it appears we have two lots or one lot and some more. So do we in fact only have one lot or do we have two? Who owns that other 17 ft. if it’s a second piece of property? It is our understanding that that property is owned by the City of Boise, the Boise Parks Department. We’re wondering if in fact this development in any way, shape or form encroaches on any currently owned city property or if in fact Boise City itself has certified that by survey, a legal survey, that there is no part of this lot that is owned by Boise City. We don’t know that the answer to that question has been answered. We would certainly like to know that that has been answered before any decision is addressed. Also, Representative Garrett indicated that traffic is a concern. We have been before you on multiple occasions regarding the Crescent Rim Condo project. Spent thousands and thousands of pages and minutes discussing that. One of the things that we learned during that process, as we went before both ACHD and the Boise City Council was that we were told that traffic is a problem of ACHD. We were told that by Boise City. But when we go to ACHD we’re told that traffic is created by the zoning that Boise City puts into place and the density at which Boise City approves buildings on those zones. Here we have a zone, whatever it may be, where you, by virtue of ACHD’s comments, aren’t going to be the ones to decide what the traffic load is from this piece of property because they would default to you and say it’s up to the zoning. We have undertaken a very specific traffic study of both Crescent Rim and Peasley in the last 90 days and that data explicitly indicates that the traffic on Peasley is well over what a standard street would carry anywhere in any subdivision that this body approves under a new subdivision plat. That load is about 2X of what you would typically put into a subdivision on McMillan and Ustick or on Cole and Five Mile or wherever you may look at it and it’s not going down. I think it is also interesting that for the very first time that I have heard, we know have an applicant who is stating that it’s not any different than or higher than the Crescent Rim project and as we stated months ago we were very concerned about the precedent that the Crescent Rim project would create in all adjacent surrounding
neighborhoods, not just lots. If because this is a mere 50 to 80 ft. away from the Crescent Rim property and we start going up and making exceptions and then somebody buys next to that and buys next to that and buys next to that, pretty soon we have a domino effect going all the way down Peasley, all the way down Alpine, all the way back into Ruby Street. Where does it stop? If we’re going to continue to approve homes that have no off-street parking, right now I would point out that if a person that lives adjacent to this lot has 2 cars, they would probably park one in the driveway and one on the street. If this person has 2 cars, they literally could not park those two cars virtually in front of their own property depending on where the City property begins and ends. When the Depot holds events, whether it be open houses or weddings, etc., they will put a sign right at the intersection and bring people into this area to park. They use that for the parking overflow for the Depot events. If people are parking in that, which they now do because sometimes there is no availability on Peasley, we literally have people on Peasley using Boise City property as parking because there is none at that apex of that intersection which we don’t think is the proper way to do it. First the off-street parking – I don’t think that any of our City Council members would say that they would ever intend to have buildings created that would literally force cars onto the street. If you lined them all up I doubt you would find any of them that would agree with that premise. Secondly, it does not fit with the surrounding structures. You would drive down the street and you come to the end of the street and you’d say I wonder who decided to put that there rather than saying it fits in nicely and fits in with both sides of the street. Secondly, the reference to the Crescent Rim Condo project, precedence again. Are we starting a precedence that’s going to domino? Are we literally going to have to be on our toes for every single development that goes on in the 400 yards on every side of this project? Thirdly, who really owns the adjacent property? Where did that extra 17 ft. come from adjacent to that 25 ft. wide lot?

Russ Thompson (Representing the Depot Bench Neighborhood Association, the Appellant/3528 Meadow Pl./Boise/83706) – I want to call into effect the loopholes on this thing. The word loophole has been used several times here and I think the Woods, a planner that found a way to even put a building on this piece of property is amazing to me in itself. I mean it’s a little tiny piece of property. When you look at the different things we’re looking at, we have no parking. We have a piece of property that was bought at a tax sale and I’m not so sure they say it was a lot, but if it was a whole lot, yes, but it’s not. It’s a piece of a lot. Then you look at the different parts of it, the ethics that go into even building on this land. My understanding is Planning & Zoning is who is protects me as a citizen from something being built that shouldn’t be built in my city. I hope I am correct with that cause that’s what I firmly believe. Well, then the staff of Planning & Zoning’s job is to find and fix the loopholes, not to crawl through them. What I see is somebody right here crawling through that loophole and it’s an employee of the City that’s going to build on this lot. So we’re going to encroach on every side of it in every way including height, width, depth, every way conceivable and then build something that doesn’t require parking. Now if any other contractor walked into this room with that plan, I don’t believe they’d be approved. I don’t think they would have made it this far because they don’t have the capability of reading the laws quite the same as what our planners do. I mean our planners the people who look at this so they’ve got the best chance of anybody getting this through. I’m not
saying that’s a bad thing, but what I am saying is that it stops at your desk, the people that make this decision. Do we keep coming back because it’s 5 ft. higher or 10 ft. higher or 2 ft. wider? Did the City Council mean that there wasn’t going to be parking? No, I don’t think anybody meant that there wasn’t supposed to be any parking with something that we build. I think everything we’re building we expect to have parking in our neighborhood for. They say we don’t want you parking in front because we didn’t want it to look even worse. Well, we’re parking in front, just differently. We’re going to park on the street now. Now we don’t even have the right sized lot so I really think when we look at this thing it really comes back to your decision is this a build able lot or is this something we’re trying to stuff into something that doesn’t fit? I think the guy that designed this house did a great job. It’s a really good looking piece of design if it were on a lot that it fit. Unfortunately it doesn’t and it doesn’t fit our neighborhood and it doesn’t fit the 1-story house beside it or the one across the street or the one 2 houses down and do we build this one here and then as Mr. Borchers said, just keep going and going and going? Where do we stop? Before long we don’t know what we have. We don’t know what our rules are. I would like to say that this doesn’t fit and they can’t build on this lot. It doesn’t fit a house here. Unfortunately the house would have to be, to fit a 25 ft. lot, we need a 15 ft. house and then where are you going to put the parking? There is none so we’re right back where we started. It’s not a build able lot. It’s as simple as that. And the ethics that go with it say it’s a bad plan to start with.

Ken Reed (Applicant’s Architect/2662 N. 38th St./Boise) – We’ve been working on this project for quite some time now. It was approved by staff and it’s been discussed rather at length with Teresa Sobotka, with Dave Abo, the legality of this lot. The size shown on the site plan is accurate. The site plan is to scale. It meets the setbacks. This will be heated by gas fireplaces so we are allowed to have a 2 ft. x 8 ft. encroachment into the side yard setback for fireplaces and utilities. There’s a light well and as long as the concrete doesn’t extend a foot above the grade, that complies with the side setbacks so that we have egress out of the basement. We’re simply trying to create a small home for someone. It meets the ordinance. We went through it thoroughly and we recognize that as this lot goes, as a peninsula lot, it doesn’t really have applicable parking. We can’t put parking in the front of this thing. We can’t get behind it. We’ve tried to talk to Parks & Recreation. They simply will not discuss whether or not we can have access onto their property so that we can do something in the back or some other sort of configuration. It’s just simply not allowed. We’ve expired the ideas of putting something in front, putting something in the back and putting something on the side. There is parking on the street. There are people parking on the street now. Adding one or two cars is not going to … on Peasley Street. That is the regulation as it was approved and as it we complied with it. The idea of compatibility is I think a bit subjective. I think some of the comments of the Design Review Committee were very kind and I take them as compliments. They all complimented me on the design. They all felt it worked. There are design professionals on that committee that are very knowledgeable about these things and it’s not like compatibility means that I have to make the building look like every other house on the street. I drew from elements that are classic to these neighborhoods. There is a gable, smaller windows that are multi-paned, balconies, porches, modulation of the wall plane and as you can see from the perspective, I did all that. The staff
report asks that I put some trellis work on one side of the perspective to break of that wall. That was complied with. That was discussed in the last Design Review hearing. There was also a desire to have a covered roofline over the side entry. I have that shown in the perspective.

Compatibility is … in the Depot Bench Association area with the number of different buildings that are there. There are a number of 2-story buildings on Peasley Street alone. When you get to Crescent Rim, they increase in height and mass. As you look at the tower of the Depot itself and as you look at the proposed projects that are coming, it is compatible. It’s not a deep lot so to make it functional, we went up. The house is not very big. There is basically a room on each floor, a unique sort of solution to a unique lot. You probably won’t see another one of these in front of you again. It’s a peninsula lot that faces open space on Alpine and the Depot and really only abuts one parcel. That parcel, that person, hasn’t complained about this project and hasn’t been present at these hearing nor raised any issues with compatibility whatsoever. We’ve tried to make something that is somewhat fun and someone would have fun living in. They definitely would have to be ambulatory as there are a lot of stairs in the design. We would appreciate your support on this. Some of the issues that were brought up tonight are quite legal. I think we need to go with the City’s staff’s statements that this is a legal lot and it is the size as shown and it meets the setbacks and it meets the ordinances. Sarah Schafer looked at this. Cody Riddle looked at this. Dave Abo looked at this. There have been a lot of people that reviewed this and we believe that their review of this is accurate. There really isn’t an existing law or guidelines in the ordinances that say you have to be exactly the same as all the buildings along a certain street. It doesn’t say how you are supposed to differentiate or how you are supposed to actually be compatible. I would lean on the judgment of the Design Review Committee. That is there job. They were very complimentary on the compatibility of this design altogether. This is a very small lot. It’s a substandard lot. Some of the issues that were brought up tonight basically lay design overlay criteria on this lot, which it really doesn’t have. It’s simply in an R-2 zone. It doesn’t have a design overlay designation. Some of the ordinances that were being spoke to tonight required that we comply with more ordinances and more design overlay rules than is actually required for the zone. I don’t think it’s really proper to apply Design Review standards to a property that is subject to an ordinance for substandard lots and a design overlay requirement without that designation. It was reviewed by staff, the Design Review Committee and Legal Staff. …. has been reviewed and complimented by … the committee.

Commissioner Cooper – You say you do have a recorded survey for the lot?

Mr. Reed – The survey was done by the staff of Boise City. We got the actual dimensions … parcel from Boise City. You have actually get…. from …. the city… to actually determine the actual size of the property…

Commissioner Fadness – One of the Neighborhood Association’s representatives testified that the adjacent owner is the City Parks Department, is that correct as far as you know?

Mr. Reed – The person to the south… purchased… was required to actually get the signature of the person who was living there before. He expressed no displeasure of the design.
Commissioner Fadness – Is that Lot 21?

Mr. Reed – That’s the lot to the south. I’m not sure the lot to the north is a lot. It’s really a right-of-way to the railroad.

Commissioner Van Ocker – It’s been mentioned in our staff report and by some of the folks that spoke earlier that there was some discussion about Design Review reducing the height and that staff and you presented sketches? Can you discuss that and what that would entail?

Mr. Reed – There is a sketch on page 79 of your packet that was a quick rendering of what might happen if we took the … pitched roof off. It would make the top of the coping about 27 ft. It would have to be somewhat flat because as you might have read in some of the … you have a shape of a building that is difficult to put a roof on as is. So the roofline that you see above is the work that creates a little rectangle on top and then the hip flows around the lower part of it. If we lowered this, I would be unable to create the modulated roof and so it would be the simplest to just put a flat roof on it. It would take away some of the gable elements… that I was drawing on from the neighborhood as far as architectural style. That was shown and submitted as evidence, but it really wasn’t embraced by …

Commissioner Cooper – Where would the parapet of the flat roof version compare to the pitched roof version?

Mr. Reed – The total height of the building is approximately 32 ft. to the ridge of the pitched building. Planning & Zoning asked that we actually measure to the center of that, not to the ridge. It actually would be about 27 ft. … The 27 ft. as you see on page 79 of your packet is similar in height… possible triangle that you would …

Commissioner Cooper – And the tradeoff would be that you have much taller vertical walls?

Mr. Reed – Yes, you would have walls all the way to the top of that, whereas some of the other walls around the building are less. We’ve created a small attic room… an architecture that looked … that would fit the neighborhood… and to capture a bit of storage space…

Commissioner Van Ocker – When they jumped on the Ada County Assessor’s map, Lot 20 shows the adjacent parcel. Lot 20 is the one that was quit deeded which is the one we are talking about, so it appears that either the Assessor’s mapping is incorrect or we’ve got a problem. Am I on the right lot? It is Lot 20 or Lot 21? There isn’t a light 21, right?

Mr. Riddle – The parcel has always been referred to as a portion of Lot 20. There’s no reference in the record to Lot 21 at all.
Commissioner Van Ocker – So we have Lot 20, which the assessor’s give this tax parcel number and the triangle portion that we are talking about this evening is actually a portion of Lot 20 that at some point became its own lot?

Mr. Riddle – Yes, even the deed from 1956 only refers to a portion of Lot 20. No reference to 21 at that point either.

Commissioner Van Ocker – So do they have two separate tax parcel numbers?

Mr. Riddle – No, just one parcel number.

Commissioner Van Ocker – If that works than I want somebody to pickup my tax parcel numbers. I’m really confused.

Mr. Riddle – Which parcel are you referring to as 21?

Commissioner Van Ocker – I’m not. 21 was just listed in some of our documents and I think it actually came from the association. Lot 20, even in the map, it shows the tax parcel numbers and that was given in part of their presentation. When you look back at the other mapping it’s calling out the triangular piece and it’s the same tax parcel number so how can the house, which is there, have the same tax parcel number as the one that we’re talking about?

Scott Spjute – Tax parcel numbers don’t mean a whole lot to us. It’s a legal parcel. That was determined a long time ago and that decision was never appealed. What was appealed was the Design Review Committee’s decision, which by the way wasn’t privy to all this. This is new information that they didn’t see. We determined a long time ago that this was a legal parcel of record so whatever parcel number the County assigns to it is of no consequence to us. I don’t know all the detailed answers to your question, but maybe the more important basic thing is that it’s a legal parcel of record. The decision was made a long time ago and never appealed and that wasn’t the issue before the Design Review Committee and it probably ought not to be now either.

Commissioner Brunelle – When you say a long time ago, do you mean a long time ago April 2004, the letter from Dave Abo or a long time ago in 1956?

Mr. Spjute – I don’t know the dates. It was determined when this application was submitted. It was determined by the Subdivision Staff and then verified by Legal Staff that this was a legal parcel of record.

Commissioner Brunelle – Then I would infer from your response that we’re talking about the 2004 correspondence in our record, the letter from David Abo.
Commissioner Cooper – I’m concerned about the issue of there being no parking requirement just because there isn’t any room here. What is the basis for that?

Mr. Riddle – The emergency ordinance did prohibit garages, accessory structures, things of that nature in the front of any of these substandard lots so it was the determination that no parking then would be allowed in front of those homes. However, the ordinance didn’t specifically prohibit any development on those lots either.

Commissioner Cooper – And so that ordinance would override the base ordinance that requires 2 spaces for each residential unit?

Mr. Riddle – That’s correct.

Commissioner Cooper – I don’t understand the discussion about Parks & Rec ownership. What I see on the documents here is a railroad right-of-way. Is there some kind of an arrangement that Parks can use that space?

Mr. Riddle – I believe this parcel (here) is owned separately than the right-of-way you see (here) with the railroad, but this ownership does come up as Parks & Rec.

Commissioner Fadness – The Emergency Ordinance indicated that front yard setbacks should never be less than 15 ft., but then apparently there was a discussion in Design Review and further consultation with Boise City Legal that found that encroachment of the front porch is consistent with Zoning Ordinance requirements. By that are we saying that the Emergency Ordinance wording didn’t take into account encroachments? Was it an issue that wasn’t addressed or was there an error in the Emergency Ordinance?

Mr. Riddle – The Emergency Ordinance did not specifically address encroachments one way or the other so at the Design Review hearing it was determined that that provision was still allowed.

Commissioner Fadness – Does the Emergency Ordinance state that front yard setbacks should never be less than 15 ft?

Mr. Riddle – Yes.

Commissioner Brunelle – I wanted Mr. Gannon’s take on the question of the lots and the determination made by staff.

Mr. Gannon – Nobody in this record says that this lot is 42 ft. except for the design. Dave Abo never said it was 42 ft. in his finding on the subdivision in his 2004 finding on page 51. All he said was that Lot 20 is a substandard lot of record. I agree with that. Lot 20 is a substandard lot of record, but nobody ever said that somehow an original subdivision plat had evolved from 25 ft. to 42 ft. Dave Abo didn’t say that, nobody said that and in fact Mr. Riddle on page 4 agrees
that all we are talking about is Lot 20. I was confused from day 1 on it because I though they’re saying it’s 42 ft. so I thought they had two lots. Then when we went through the record we realized they were only talking about 1 lot, Lot 20. I challenge anybody to find in this record, anyplace, where there’s something other than Lot 20 and whether there’s something other than 25 ft. other than the architect’s design. The Parks & Rec is the neighbor so if there’s going to be an encroachment; somebody has to figure out where that 17 ft. is. If there’s going to be an encroachment on that 17 ft., if it is an encroachment, I don’t know because there’s nothing in the record and I don’t know where that 17 ft. is coming from, but it could well be coming from the City of Boise. What happens if Planning & Zoning approves this, the house gets built and then somebody asks who owns the 17 ft? I challenge the applicant to tell us who owns it.

Commissioner Cooper – Following Mr. Gannon’s testimony about the City’s position on the legal lot of record and whether it is documented that it is a 42 ft. wide lot.

Mr. Riddle – Without scaling the parcel off on the photo, the parcel in question that we are looking at here is referred to as Lot 20 and it is clearly wider than 25 ft.

Commissioner Orman – Looking at our photographs, it has a picture of the Crescent Rim site across the street. What is the approximate height of that building when it’s built? How tall will it be?

Mr. Riddle – I believe that project stepped from 2, 3 and possible a small portion to the 4th level in the center. I don’t know a specific height. I’d say at 4 stories it would exceed 40 ft.

Ken Reed (Applicant’s Architect) – I think the issues tonight have been compelling, but I believe they have been thoroughly researched. I don’t know if your vote is really going to determine proof at this time, but that can be ascertained. There can be legal surveys that can be done. I am required to comply with setbacks. I’m required to comply with the zoning. If this parcel cannot be legally surveyed and be created as drawn, then we have to go back and revise this. We’ve spent a lot of time talking about it, but the reality is that we’ve applied for a design to be reviewed. It’s been reviewed… As we move forward with working drawings and construction, then setbacks have to be made, survey pins have to placed and all these things are done as steps. I don’t think this is…. As far compatibility, the front setback, Ms. Sobotka basically ruled that porches, balconies are part of a neighborhood architecture … and that’s why they ruled that… setbacks could be moved to 12 as it is normally, that the building would be more functional. If we moved the setback back, the building would be less functional. The… in the house are very small. They would have a lot less room inside of each room and so… to allow that porch to stay on the design. They felt it complimented the architecture and not detracted from it. As it’s been brought in the testimony, the height of the adjacent properties are going to vary quite a bit on this street so that this building will not take away from the compatibility of this neighborhood. These other developments that have been approved, the existing houses and that are adjacent are all within keeping of compatibility of this project. Those are the main points that I have been hearing this evening.
Mary Hobson (Appellant) – I’d like to direct your attention to page 53 of your packet, the Quit Claim deed. It’s the only document in this record that gives you a legal description of Lot 20 and what it tells you is that it is a portion of Lot 20 in the Rosehill Subdivision of Boise City, Ada County. If you look at page 59 of your packet you will see a subdivision map and you will see this little corner up here. Someone’s gone over it with a marker and you can clearly see that with that marker more than Lot 20 has been outlined. There is a portion of what would count as Lot 19 and a portion that would count as Lot 21. There is simply nothing in this record that explains who owns Lot 19 or that portion of Lot 21. We’ve heard the architect tell us that he got the information from the City but whatever information he got from the City is not in this record. In fact again, directing your attention to what is in the record, at page 46, you have the taxing authority who created this Lot 20 problem with their tax deed telling us that it is simply Lot 20 and again it’s 1/100’s of an acre. How you get a 42 ft. frontage and 1,500 sq. ft. in 1/100th of an acre is beyond us mathematically. We’ve heard the architect tell us that he’s not encroaching because standard setbacks allow him to build his porches, his fireplace piece and his balconies, etc. in the setbacks. But, you can’t default to standard setbacks and not default to standard parking requirements. As a matter of fact, this is a substandard lot. You’re required to follow the Emergency Ordinance and those parts of the general ordinance that are referred to in the Emergency Ordinance and you will not find the opportunity to encroach in the 5 ft. setbacks I don’t believe. As I already indicated, you will find that it does trump because it specifically states there will never be less than a 15 ft. setback.

John Gannon (Appellant) – The only evidence that’s even come forward, looking at this spatial viewer and saying well it looks approximately 42 ft. But that doesn’t jive with Lot 20, Block 5 of the Rosehill Subdivision which is clearly 25 ft. on the subdivision plat. A deed always trumps what someone has designed or someone makes a claim on. The deed is the one that gives a legal description that has to be followed by the courts and the entire system and every deed in here says Lot 20. The assessor even says that this is 1/100th of an acre. I don’t know whether that’s right. I don’t know where they got that from. Once again, the deed is going to trump what the assessor’s says as far as the area of this particular lot. I ask you to look at the deed and if there is something in the record that’s been missed, to pull it out and bring it forward now. But there’s nothing in this record and there’s nothing I’m aware of, in fact I could supplement the record with another deed, but we can’t do that on an appeal, but there is nothing in here that supports a 42 ft. wide property.

COMMISSIONER COOPER MOVED TO UPHOLD THE ADMINISTRATIVE APPROVAL OF DRH06-00027 AND DENY THE APPEAL.

COMMISSIONER ORMAN SECONDED THE MOTION.

Commissioner Cooper – I think this is a tough one. I really like the house. I think it’s a very elegant design on a very difficult lot. I agree with the arguments that just because the adjacent houses are 1-story bungalows that means that everything else in sight needs to be that way. I
think the architect has come up with an extremely creative solution. I have to admit I’m going
by staff’s comments on some of these other issues that since the Emergency Ordinance did not
permit parking in front of these properties and there’s nowhere else to park that no parking is
required. I’m a little more easy with the encroachments. I think it’s clear that those are legal and
I guess I’m coming down with the conclusion that whether or not this is a legal lot and what it’s
dimensions are really are really outside our consideration.

Commissioner Van Ocker – I don’t think I’m going to support the motion. We have to find
cause on how and why the Design Review Committee and staff errored in their judgment on
approving this. I’m having a really difficult time doing that, finding where they errored with our
ordinances. I can’t support the motion because of the fact that I think they have errored and I
can’t figure out a good way to state it other than I’m holding my hat on the parking issue.
There’s just no way that even with our Emergency Ordinance that we would have intended to do
that. Whether or not the language is written in our ordinance and the fact that it’s not there and it
seems like we’ve come around this through a back door that would be my reasoning for sticking
with this. I do think the architect has done some amazing things with a piece of ground that is
virtually impossible to develop and I think that’s why we’re at this place and that’s why I want
to take a step back and look at this. I think we do have errors both ways and I don’t think it’s
appropriate to approve this knowing that our basic zoning requirements would never approve a
project that did not, in some way address parking.

Commissioner Brunelle – I’m going to vote no on the motion. I conclude that the Design
Review file was arbitrary on two counts. The first one was applying Section 11-03-09.03 where
it says building design; 2-story buildings are discouraged. What they presented us was a
building that actually exceeded 2 stories, it’s 2 ½ stories. It is a nice design, but the ordinance is
clear that 2 stories are discouraged and my interpretation of anything larger would be more
discouraged. In looking at the decision-making from the Design Review Commission, it appears
that what they did in making their decision was they did not follow that section where it says that
you can allow a 2-story building under some circumstances and it speaks to mass, height,
window placement and design, adjacent property design layout, privacy of adjacent lots. But if
you read the transcript what you get are Commission findings and discussion that go only to the
design of the building and what a good job the architect did in a difficult situation. What I don’t
see there is a focus on the circumstance or the context where that lot is in relation to open space
that’s owned by the City to the north and the open space with the right-of-way and Alpine Road
to the west. Secondly I agree with Commissioner Van Ocker regarding the Emergency
Ordinance and the section regarding the prohibition on garages, carports, accessory buildings
would be prohibited in front of the residential structure under the Emergency Ordinance. Short
of a clear repeal of the underlying ordinance that buildings need to provide their own parking,
which I did not see there, I don’t think that the City Code had been set aside that parking needs
to be provided for on this parcel. It’s clearly not. So those were the two reasons that I’ve
concluded that the basis for a denial.
Commissioner Orman – I concur with Commissioner’s comments in that they have done a really good job working with a very challenging site and come up with a very nice design. I also think that this property transitions nicely from a single level bungalow to the proposed 4-story building across the street. It will be a complimentary use for that neighborhood. It looks like something that would fit on this property and it was a very challenging thing to come up with.

Commissioner Fadness - On page 6 of our packet we have the grounds on which we have to use in deny an appeal. I’m looking specifically at ‘D.’ We have to find that the decision is arbitrary, capricious or an abuse of discretion. For the review body’s actions to be deemed arbitrary or capricious it must be shown that its action is without rational basis or in disregard of the facts and circumstances presented. In the next is I think key: “Where there is room for two opinions, action is not arbitrary and capricious when exercised honestly and upon due consideration.” I have serious problems with this application and questions, parking chief among those. Also as I questioned staff about the Emergency Ordinance it indicated front yard setbacks should never be less than 15 ft. and then staff goes on to explain that the Design Review Committee, upon consulting with Boise City Legal Staff, found the encroachment of the front porch to be consistent with Zoning Ordinance requirements. I don’t necessarily agree with Design Review’s findings, but I understand the arguments they were making for their findings. I do not find that the conclusions they came to were without rational basis or in disregard of the facts and circumstances presented. While I believe that there are definitely issues with this, especially with the parking and the setbacks are the two that trouble me the most, the lot issue itself I heard some reaction in the audience when Commissioner Cooper said that was beyond our purview. Some of you sounded astounded that he would say that, but it really is. To me that’s an issue that assessors and people that are not a part of this Commission need to determine. So on that I need to trust what City Staff has told us and what the architect has told us. If he’s wrong then he’s going to be in trouble and is going to have to make some adjustments. I’m not finding where Design Review made their decisions without rational basis or in disregard of the facts and circumstances presented. I’M GOING TO VOTE FOR THE MOTION TO UPHOLD DESIGN REVIEW’S FINDINGS AND DENY THE APPEAL.

COMMISSIONERS IN FAVOR TO DENY THE APPEAL:  COOPER, ORMAN & FADNESS

COMMISSIONERS AGAINST MOTION TO DENY THE APPEAL:  VAN OCKER & BRUNELLE.

COMMISSIONER WILSON ABSTAINED AS SHE WAS THE P&Z LIASON ON DESIGN REVIEW COMMITTEE AT THE TIME THIS APPLICATION WAS HEARD AT DESIGN REVIEW.

MOTION TO DENY THE APPEAL CARRIED 3-2.

CUP06-000017 & CVA06-0006/Patricia Hewitt
Location:  7777 W. Goddard Road
CONSTRUCT A 350 SQ. FT. DRIVE-THRU COFFEE SHOP IN A C-1D ZONE AND REQUEST A VARIANCE TO LOCATE THE FACILITY WITHIN 200 FT. OF RESIDENTIAL PROPERTY.

Scott Spjute presented the staff report with a recommendation that the application be denied.

Jeff Lanks (Applicant’s Representative/1010 S. Allante/Boise) – The use is compatible to other uses in the general neighborhood. To the east of the site there is an existing deli, to the north is a commercial retail strip center which houses numerous offices. ACHD has stated that the use will not place an undue burden on the existing vehicular transportation system within the vicinity of the proposed development. It will only generate 54 additional trips per day and most of the traffic will come from people already on the roads there. Worked with ACHD on the curb cuts to suit their needs. The submitted site plan clearly sites the site is large enough to accommodate a 350 sq. ft. drive-up coffee shop with its access and escape lanes. To the west is vacant land and will most likely remain as such do to site restrictions, easements and setbacks along Goddard and the canal. The neighbors to the north have signed a waiver stating they are in favor of this project. Will not have a speaker system at this facility for the neighbors to hear. The nearest residence is about 150 ft. away across the canal. This is an infill site. There will be a bike rack, a covered patio and a sidewalk to allow walk-up traffic to the window. The lane will allow 16 cars to be stacked up at any one time. The hardship for the variance is the very long, narrow lot. With ACHD’s right-of-way takes and the canal easements to the north it’s a very restricted lot. It only allows for a small building and a retail building wouldn’t fit due to parking requirements.

Patricia Hewitt (Applicant) – Son will be operating the coffee shop. A neighborhood meeting was held and there were no objections voiced. The parcel is 23,000 sq. ft., not 14,000 sq. ft.

Tyler Woolley (Applicant/2625 Christine/Boise/83704) – Will be the one operating the facility. Urged approval.

Mr. Spjute – Indicated staff would have less objection to the variance if there is no speaker system.

COMMISSIONER VAN OCKER MOVED TO APPROVE CUP06-00017 AND CVA06-00006 AND DIRECT STAFF TO COME BACK WITH FINDINGS OF FACT.

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Van Ocker – Dealing with the variance, if the speaker system isn’t going to be there and take into account Settlers Irrigation is to the north, the concerns with the variance have been mitigated. It’s very clear that this is a compatible use. ACHD has approved the site plan and the application and feels it will not place an undue burden on the existing roadway. The parcel is a vacant tract of land and is extremely narrow, given all the easements this is a great development that will add to the area.
Commissioner Wilson – Given the size of the lot and the encumbrances as mentioned, this is an appropriate for the site and one of the few uses that will work on the subject site.

Commissioner Cooper – Agree. This is probably one of the only things that could fit on a piece of land like this and with the proximity to the school and the church it’s probably an appropriate use. ACHD doesn’t support the idea that the use will make the traffic significantly worse so will support the motion.

Commissioner Orman – Concurred with Commissioner Wilson. However, in looking at the site plan it may not be as pedestrian friendly as a use that would generate less vehicle trips per day. With 2 curb cuts and cars going in and out, a school across the street, it is a concern.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of May 8, 2006 – COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of May 1, 2006 – COMMISSIONER COOPER MOVED FOR APPROVAL. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
June 12, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Doug Russell & Tony Orman.

Staff Members Present
Angela Wood, Carl Miller, Cody Riddle, Susan Riggs, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Deferrals

CAR06-00024/Boise State University – COMMISSIONER WILSON MOVED TO DEFER TO JULY 10, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00017 & CVA06-00006/Patricia Hewitt FINDINGS

SUB06-00034/Latona Subdivision
Location: On the east side of N. Hampton south of Lupine Street. 12-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00035/Blackeagle Condominium
Location: On the northwest corner of Overland and Maple Grove 2-LOT (22 UNIT) CONDOMINIUM SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER COOPER MOVED TO APPROVE THE ABOVE APPLICATIONS ON THE CONSENT AGENDA WITH A DELETION OF CONDITION #12 FOR CUP06-17 AS IT A DUPLICATION OF CONDITION #7.

COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00026/Boise City
AMEND TITLE 11 OF THE BOISE CITY CODE TO ADD A CHAPTER 22, SPECIFIC PLANS, TO ADD RULES & PROCEDURES FOR THE ADOPTION OF SPECIFIC PLAN DISTRICTS IN THE CITY. SPECIFIC PLANS PROVIDE A MEANS TO MODIFY OR CREATE NEW ZONING REGULATIONS FOR UNIQUE AREAS AND DEVELOPMENTS SUCH AS MIXED USE DISTRICTS AND PLANNED COMMUNITIES OR PLANNED DEVELOPERS WHERE OTHER CONVENTIONAL ZONING MECHANISMS CANNOT ACHIEVE THE DESIRED RESULTS. SPECIFIC PLANS ARE ADOPTED INTO THE ZONING CODE BY ORDINANCE AND BECOME EITHER THE BASE ZONE OR AN OVERLAY ZONE FOR THE PROPERTY. THIS IS AN ENABLING ORDINANCE ONLY AND DOES NOT ADOPT OR APPLY A SPECIFIC PLAN TO ANY PROPERTY.

Hal Simmons presented the staff report with a recommendation of approval.

Commissioner Fadness – It sounds like it’s a comprehensive plan for a specific project only unlike a comprehensive plan that’s a guideline it’s more set in stone as to what will be done with this project.

Mr. Simmons – It could be thought of as a combination of comprehensive plan and zoning document and conditional use permit for a project in its most detailed form. There would be a site plan, there would be a detailed illustration of every aspect of the project in this document in its most complex form.

Commissioner Fadness – I’m trying to remember back to some large projects we had that came to us in phases. If I remember right, there was a comfort level at having those because these projects might take 10 to 20 years to build out and so they had to come in at each phase and get approvals. If a specific plan is adopted for a larger project that might take 10 to 20 years to build out, does the Planning & Zoning Commission or the City Council have opportunity to go back and say they think the project is changing and they want to open up a specific plan again and relook at it? Once it’s adopted, what sort of recourse do we have after that?

Mr. Simmons – If a specific plan were addressing a large project with many phases over time and the Planning Commission or Council had concerns about how those phases might affect the City and how the plan may have to be adjusted to accommodate those phases over time, the review and approval process for those phases could be addressed in the specific plan. If you want to require a conditional use permit for each phase and there’s a need to, the plan would specify that. In terms of forcing an amendment to a specific plan after it’s been adopted, I guess it would be the same as any zoning entitlement or a conditional use permit. It’s difficult to force a change unless the applicant proposes to do so. You’ve got to be careful about what you adopt into a specific plan, that’s your comfortable with it and that it protects the City’s ability to react to conditions as they change on the property. Part of the specific plan can have all of that in it if you wanted to. You can clearly specify what you want to occur prior to each phase of construction.
Commissioner Cooper – From an applicant’s point of view then they would, through the public process just once, have their public hearing at that point. But, each phase of the project would have to be described as fully as would be required for having to come back for each phase?

Mr. Simmons – That’s correct. If you still were not comfortable with granting that type of approval with one document, you could require that the specific plan allow for additional review at each phase. Prior to construction of each phase there may be certain thresholds that you would want to be able to review against traffic capacity, air quality, water quality, etc., that the applicant would have to come back and report to you and it would specific in this document. Before they could get permits for that next phasing they would have to demonstrate consistency with whatever those thresholds were.

Commissioner Cooper – I can picture some of these larger developments that as they build the first few phases and they see how it’s selling or not selling, they may want to change a future phase. If they locked it in on that first application they have to come back with the full public hearing process?

Mr. Simmons – That’s correct.

Commissioner Brunelle – The City Ordinance has several references to conceptual plans and conceptual planning. Has staff looked at any sort of cross referencing that ought to occur here, for example you’d have some applicants that would come in with a big conceptual plan that looks really good and gets a lot of support. I think a detailed plan would be where the real payoff is and it would seem to me that isn’t there in interplay that ought to be put into this ordinance?

Mr. Simmons – We allow for concept plans by conditional use permit. This ordinance may potentially simply modify existing processes so if you want to adopt, in this ordinance, a concept plan and allow for detailed planning at a later point in the process, I guess you would cross reference back to the conditional use permit process to do that. I’m not sure if that’s what you are asking, but I think each specific plan that’s prepared will be different from any previous specific plan. A specific plan itself will establish a process and a series of references back to relevant portions of the code, whatever’s relevant for that particular project. If you’re talking about concept to detailed approval, each plan will detail how that works.

Commissioner Brunelle – Would you see a need to tear specific plans to conceptual plans that have been approved? I guess since they are approved through a CUP they really don’t exist at the same legal stature because they are just a permit. They are not part of the city ordinance. On Section 11-22-04, the initiation paragraph talks about the need for a 75% ownership within an area to initiate a special planned district application. How did you get at the 75%? What if I’m the 25% person and I don’t want in? Am I dragged into this process? What are my rights and protections if the 75%er is trying to do something and my interests are not being protected?
Mr. Simmons – I guess it’s like any large master planning process where you are dealing with an area like the downtown. You are going to have property owners who aren’t 100% in agreement with it. Hopefully preparation of a specific doesn’t occur by one person in a vacuum and it’s done as part of a process and a compromise and ways are found to accommodate those who disagree with the initial application as you go. If you get to public hearing and you’ve got that 25% that are just outrageously angry about what’s in the plan, it’s probably not going to get adopted. A successful planning process builds consensus among all the stakeholders.

Commissioner Fadness – I assume this has been kind of floated through the development community. What has been their reaction?

Mr. Simmons – There’s been interest expressed among the development community. We had a number of people ask us for copies of it. I haven’t received comments back from anybody yet. It may be that we have this on the books for 5 years before anybody uses it. On the other hand we may get someone walk in the door in 2 months and want to give it a try. It’s a new concept in Idaho and there are probably not a lot of developers today that have experience with these. But they are used successfully in other states and they do allow flexibility and creativity that standard zoning does not.

Commissioner Cooper – You can go to the Ada County Ordinance and Hidden Springs actually has its own section of the ordinance, which I believe is just what Hal is talking about. It has full architectural guidelines, it’s an extremely complete document. It gives you an idea of how it’s being done in other municipalities.

Jim Storey (Representing the Pioneer Park Neighborhood Assoc./1607 S. Ashpark Ln./Boise) – I stood here and listened in 1995 to Gary Hawkins explain to you a concept that was never done in Idaho before. Now we have the Spectrum Complex. That was one entire square block with everything that’s on it today except 2 buildings. It was designed and brought forth and all of you went forth and did it. We didn’t object to it. We thought it was the greatest thing ever. At that time I was in the neighborhood association. Now my position encompasses the complex. Today there are problems that were not even conceived in 1995. Mr. Hawkins didn’t conceive them and no one else did. One of the things that happened, what do you do with the adjacent properties when you have something that’s adjacent to it but belongs to the individual? They in turn went to sell that. One piece of their property was a golf course. It came through. You okayed it. They decided not to do it. Next time it was a school and they decided not to do it. Next time it came through it was 3 buildings that were business buildings. Today the final okay given by you was a hotel. That hotel is 3 stories high and adjacent to the subdivision. I don’t think anybody was looking very far ahead to have a 3-story hotel one street away from residences. This entire concept is great, but I don’t see that there’s anything new. You did it before. What’s changed now, and in every time we went back through and I think that’s the way that it should be done. I think we should go back when it was a golf course. If it will fit, here’s what we need to do. But if they turn it all around and put it all into one at one time with no choices, nothing else, you don’t have the opportunity to say this doesn’t look right or our last
little thing I have to deal with is parking. Now Spectrum doesn’t have enough parking and the particular area that we are talking about, part of it, the hotel encroached on that parking that was supposed to be overflow parking. Now Mr. Hawkins wants to sell the other lot. I feel that as President of my neighborhood association, that’s way above my pay grade. It belongs in yours. You guys get paid for it, I don’t. Items like this are things that I hope that you will take into consideration and so Hal can put it in so that it makes good sense down the road. We don’t know what’s going to happen down the road. Really look at it closely.

Mr. Simmons – When you adopt a new zone, whether it’s a city-wide ordinance amendment or a new zone for a particular property, anybody that reviews that document and has a role in the adoption needs to take it very seriously. Obviously you need to make sure that you are being protective of adjacent properties. You’ve got to make sure that there’s a process for public comment and input and you’ve got to be comfortable with the type of review process that you adopt into the specific plan. I think it’s probably unusual that there would be a specific plan adopted that would do away with some form of additional review of additional phases over time. But if you go that route, be careful that it’s the right thing to do. I generally agree with everything that Mr. Storey said, but I think that there’s no reason a specific plan can’t be drafted to have those protections built into it. There is a change to the ordinance. It’s on the first page under Section 11-22-02, Specific Planned District Land Use Controls. It’s in the last sentence and should read: “Any permitted or conditional use authorized by this ordinance may be included and adopted specific plan consistent with the Comp Plan.”

Commissioner Wilson – In the past for large plans we’ve done a development agreement. A good example of that would be the whole Harris Ranch Conceptual Plan and then there’s a series of conditions tied to that plan. We just amended those conditions about 6 months ago. How does that differ from a specific plan and would you envision that kind of process happening differently under a specific plan than it did under the development agreement?

Mr. Simmons – It gets to the heart of what a specific plan is. Right now it gets really confusing when you are try to deal with conditions and if they go in the CUP or do they go in the development agreement or some other document. The idea of a specific plan is if you have unique site conditions, you just have a chapter of the specific plan called “unique conditions.” If you have conditions related to phasing or timing, you have a chapter called that and it gets you out of the whole process of trying to decide whether do you amend the development agreement or do you amend the CUP and how do they inter relate. You don’t have all that. You have the zone and the zone contains all those things in one place so the point is you get away with the confusion of the development agreement versus the CUP versus variance versus concept versus detail. You’ve got one document with everything in it. As you need to break things out by type, you just do it by chapter.

Commissioner Brunelle – My take on this topic that Commissioner Wilson just mentioned, I think the distinct advantage of this approach would be through the adoption of an ordinance that allows for open and long-term collaboration amongst the landowners in the neighboring area in
the development of the ordinance itself versus just through a conditional use permit. We’re into the rules of ex parte discussions. We’re into the quasi hearing formats. We’ve adopted and ordinance that at least allows more community participation if the applicant wants to go that direction and there are of course some that might want to and some that might not want to. But, I can see a distinct advantage of this.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-26, THE SPECIFIC PLAN ENABLING ORDINANCE WITH A CHANGE TO SECTION 11-22-02, THE LAST SENTENCE OF THAT SECTION BE CHANGED TO READ: “ANY PERMITTED OR CONDITIONAL USE AUTHORIZED BY THIS TITLE MAY BE INCLUDED AND ADOPTED IN A SPECIFIC PLAN CONSISTENT WITH THE COMPREHENSIVE PLAN.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I think that this is a well thought out and timely response to development pressures that we have going on right now, specifically as we start looking to annex larger parts of Southeast Boise and the development moving out in that area. I think it will be important to have more tools to create better mixed use settings. I also think that it’s a good idea that we can create these special districts and not have all the confusion of the CUP versus the development agreement versus, etc. I know that when I came onto this commission it was a huge education for me into try and figure out what each of those things mean and that when people come to testify and they are trying to figure out what each of things mean and where you make certain statements, I think that this will provide a more clear and easy to understand process for both the public and for us. As the development moves forward people can look back and understand more clearly what decisions were made.

Commissioner Cooper – I support the motion. I agree that this gives developers another tool, although I think it’s important to note that it does not necessarily make it easier for them. As I read the ordinance, all of the requirements are there for all the detail that would be required in any phased development. I think that this ordinance would actually prevent what Mr. Storey said happened with the Spectrum because an applicant, to achieve approval of a specific plan, would have to be specific enough that he would not be able to come back with a golf course and then a school and then off-spillings on the same lot. I think it would have to be spelled out specifically to start with.

Commissioner Fadness – I think we’re going to get a lot of planned community proposal. We’ve seen at least proposals written. This could work very well for a large planned community type project. I agree with what Commissioner Cooper said that I think what we are going to see is a lot more detailed than what we’ve seen before. I also agree that it will take away some of the confusion. I remember specifically a lot of Harris Ranch hearings, as we got into the different phases of that, it might have been a lot more efficiently handled for both the public and the City through a process similar to this. I commend the City for providing this as just another option
for all sorts of changes we have coming in development, not only in planned communities but infill development as well.

MOTION TO RECOMMEND APPROVAL CARRIED UNANIMOUSLY.

CAR06-00010/Capitol City Development Corporation
COMPREHENSIVE PLAN TEXT AMENDMENT TO MODIFY THE OLD BOISE EASTSIDE MASTER PLAN BUILT FORM MAP AND ADD POLICY LANGUAGE RELATIVE TO NUMBER OF STORIES ALLOWED.

Lance Evans presented the staff report with a recommendation of approval. Submitted a letter from Clayton Carley expressing support for the amendment and an outline of the public hearing process that CCDC went through.

Mike Hall (Applicant’s Representative/805 W. Idaho/Ste. 403/Boise/83702) – The proposed modification is a change to the built format and the addition of new guidelines 3.8 and 3.9. The Old Boise site plan is a subset of the amended River/Myrtle Old Boise Urban Renewal Plan that was adopted by the City Council in November of 2004. This master plan is used as the Comprehensive Plan is used. It’s referenced in the Comprehensive Plan and it’s used in the development review process for projects. It could also be used as guidance to develop zoning regulations or amend zoning regulations. It also is used by CCDC in decisions about whether or not to support a project, etc. We began this process back in October. On October 19th, after sending a notice to all property owners within the Old Boise Master Planning Area, we held a community meeting and then we met separately with the owners and residents of the Imperial Plaza Condominium Tower at 3rd and Idaho. That was on November 2nd. We presented it again to our board in December. Then we sent the request to Boise City for comment in December. The Urban Renewal Plan dictates that a modification of this nature might be approved by the CCDC Board of Commissioners. They have the authority to approve these types of modifications. This has been considered somewhat significant and there was some opposition to this. When we presented this to the City Council at a work session, the City Council determined that they wanted to make the decision on this master plan and that is why it’s before you tonight as a Comprehensive Plan amendment and from here it will go to the City Council for the final decision. We held another public meeting on the 13th of February and then we published a notice of the CCDC meeting in the Idaho Statesman in April. I contacted interested stakeholders by phone, mainly the owners and residents of the Imperial Plaza Condominiums. We also notified the State of Idaho, Department of Administration. The State of Idaho has an interest in this potentially because part of this area is within the boundary of their Capitol Mall Facilities Master Plan. That’s not a plan that’s been adopted by the City, but it is something the State of Idaho commissioned about 4 to 5 years ago. They were actually contacted as property owners but we notified them separately. We did not get any response of any kind. On May 8th CCDC held a public meeting at which the CCDC Board of Commissioners approved of the modification and in recognition that that approval was advisory to the City. That approval was ordered and presented to you tonight. Another step that we took, and this is something that you have in front of you, is
a copy of this notice. We mailed a notice of CCDC’s action and this hearing to all property owners on May 26th. The copy of the notice that you have in front of you is that notice. The proposed changes to the built format, this is the current built format. This is the proposed built format. This area here is what is being proposed to be changed from 3 to 6 stories to 7+ stories. The areas outlined in red, they were included on the map to indicate changes that we made to the map in response to some of the public comments that we received. In general these changes were made in response to requests that we make the designation on these parcels less restrictive than they were otherwise. This is actually what the map will look like once approved and part of the master plan. Why are we proposing a modification of the map? This really was initiated by some of the requests we were seeing or some of the design concepts that were being discussed with us back in October. These were in this area that you see zoned C-5DD. As you can see, the historic district is located in the area zoned C-5. There’s kind of an unwritten height limit on this. I say it’s unwritten because I think it’s based on a decision that’s kind of functioning as a precedent from what we’ve been told. The Veltex Building is a 5-story building and that is seen as the unofficial upper limit on buildings in the historic district. The area around the historic district is zoned C-5DD. The C-5 zone does not have a height standard. It’s really a density or bulk standard. This map shows the base zoning of all of downtown. This shows you the extent of the C-5 District and the historic district is in this area right here. The area where the changes to the map would apply are generally in this area. Height related standards in the C-5 District, there is no prescribed height limit. The standard floor area ratio of 4.0 does apply. FRA bonuses are provided for residential use and other features. From what I understand, when the C-5 zoning classification was created, I believe in the early 90’s, incentives were built into it to encourage certain types of development and the FRA bonuses are the way to implement that idea to establish some incentives. Residential use is one of those desired elements in the C-5 District based on the FRA bonus provisions. Another one is public plazas, structured parking, so FRA bonuses are provided for these. A floor area ratio is not a height standard. It’s a way to control the bulk or the volume of space and would also allow for some creativity in the way a building is designed. It’s a simple formula of taking the gross floor area of a building and dividing it by the site area. So if you have a site that’s 20,000 sq. ft. and a building that’s 80,000 sq. ft., that has a floor area ratio of 4. This building is an 8-story building that occupies 50% of the site. It also has a floor area ratio of 4. This is the standard that applies in the C-5 zone. Proposed text changes, the first guideline, 3.8, really explains how the map is to be used. It’s not intended to encourage something that the plan isn’t really trying to encourage. When the plan was adopted in 2004, one of the key provisions or key ideas in the plan was to encourage residential use in the east end of Downtown. It was not intended to encourage a lot of intensive office development. The idea behind that was that more residential use in that area would help support the core area, the central business district, and also help revitalize those properties over there. Although that area looks residential, many of the residential uses have left and a lot of those uses over there are currently office. Guideline 3.9 provides us with some tools that we currently don’t have stated explicitly anywhere. 3.9 reads: “As a compliment to the built format, employed step backs, limit to floor area ratio and floor plates or other design tools as needed to assist in maintaining compatibility and to encourage preferred character. These design measures are intended primarily for those parts of the building exceeding a height of 6 stories, but shall be considered at
lower levels as needed.” One thing that I think needs some explanation is that this guidelines provides for some flexibility in terms of how it’s applied. It doesn’t mean that if someone wants to have a taller office building they cannot necessarily have a taller office building. It’s just intended primarily to encourage a better form, a more compatible form, a better looking building for a residential tower or residential use. Guidelines 3.8 clarifies how to apply to built format and 3.9 suggests some tools for … mass and approving design. One thing that’s very difficult in terms of controlling building height is to try to decide what is the right height standard. We’re finding that very difficult. Five years ago I don’t think we would have expected this soon, to see 12 story, 14 story residential towers. Last year we started seeing those types of concepts discussed. In going back to this area that’s zoned C-5 that’s around the historic district, the question we were trying to answer when we initiated this process was whether or not we were prepared to recommend that projects exceed a height of 6 stories are inappropriate and should not be approved because that’s what the built format suggested. The zoning allowed those buildings. In fact, it allows, in effect, it provides the Design Review Committee the authority to approve unlimited heights for residential towers. So instead of recommending that projects that exceed 6 stories not be approved or suggesting that they are not consistent with the Plan, we did not want to dismiss those projects out of hand. Those projects in a lot of ways implement the Plan because they are residential projects and we need a certain intensity of residential use around the core to support activities in the core. There’s also the other side of it and that is that construction costs are going up. Land costs are going up. The types of features that a residential project in this setting require, mainly structured parking and in some cases underground structured parking, make building the project very expensive and a taller building is really the only thing that is economically feasible. In recognition of that we initiated this process. We weren’t exactly sure where it would turn out. About modifying the plan, one important idea is that the zoning and the plan are separate. The zoning is the implementation of the plan or the implementation of policy and zoning is the law. In general the existing zoning will trump the plan in the city’s decision. The plan can be used to guide decision-making, especially if someone is requesting a height exception or some kind of entitlement like that. But the zoning is what rules and the zoning currently allows a base floor area ratio of 4. If someone has a building that is residential, there’s really no limit. What the zoning says is that someone can qualify for an FRA bonus of 4 to 1, meaning for every level of residential floor level, they could be allowed an additional 3 or 4. Essentially they cancel each other out so if someone’s doing an entirely residential project there’s really no limit to the height. As we understand it, the Design Review Committee has some discretion in terms of issuing floor area ratio bonuses, but the rules are fairly clear guiding them about when a floor area ratio bonus applies. The master plan does have some influence that guides decisions related to design and it provides direction regarding zoning standards. Some of the public comment we received, we had a lot of opportunity for public comment and again those changes you saw earlier to the map, those were in response to property owners who wanted us to also amend those sections of the map. The other public comment we received was generally not in favor of this. Those comments I think we can say they were exclusively comments from people that owned condominiums or reside in the Imperial Plaza Condominiums. One thing that we want to point out is that when we were putting this plan together we did as much as we could to involve the Imperial Plaza Condominium owners. They
have a legitimate voice in this process because they understood the plan was adopted a certain way and now we are modifying it so we’ve been careful to include them and to give them every opportunity to present their case to our board. The other public comment you received tonight was in the form of a letter from Clay Carley who’s in support of this plan.

Commissioner Fadness – We did get those comments for the record and the gentleman you referred to, Clay Carley, is the general manager of Old Boise.

Commissioner Cooper – You’re not generally increasing FAR, just height, is that correct?

Mr. Hall – We’re proposing to increase the height designation. We’re not proposing any changes to the Zoning Ordinance at this time, just the height designation and also those additional guidelines.

Commissioner Fadness – Then if we have the increased height and then also the step back requirement and the existint FAR’s in the Zoning Ordinance, it sounds like it doesn’t really mean there are going to be any taller buildings because generally you will want to build out to the lot line on those lower floors which takes up most of your FAR, I guess unless it’s residential, is that what the assumption should be?

Mr. Hall – Yes, I think that’s a correct statement. If it has a base floor area ratio of 4 and say with the residential component, it might have a floor area ratio of 10. The current zoning allows that. That additional guideline just provides the Design Review Committee is probably the body that would make that decision in most cases. It provides them the tool to control the design, hold the building in and legally that’s probably another question about how far they can do that but it does provide them guidance. One thing I failed to mention that in doing this there tends to be a thought or an idea that we are making the situation less restrictive and we’re opening the door to taller buildings. If you back to 2004, what is proposed to you tonight, if you were to approve this tonight or recommend approval of this and the city were to approve this, you would have more controls and greater restrictions on height than what you had before the master plan was adopted. Before the master plan was adopted all we really had was zoning for the most part. This master plan provides some extra guidance.

Patty Miller (1319 N. 7th St./Boise) – I have not been at any other of the previous hearings, but one thing that really stood out to me when I received the draft notice in the mail was the singling out of the block between 6th and 5th on Grove. I think would like to make the Planning & Zoning Commission aware of the huge jump that the situation would make between the very historic area across the street, including the oldest surviving brick residence in Boise built in 1864. It’s a 2-story building. The highest building on that block is 2 stories build on the corner of Capitol and Grove in 1990. Then if you take the jump to the new proposal of up to 7+ stories, that’s a huge jump. I was at a hearing a few weeks ago where they were discussing building some an apartment complex in a multi-use area near the MK Plaza and some of the residents were saying that was a big jump from the houses up to that. I think this is something to think about that red
singled out area. They are jumping up to over 7 stories. I know maybe it’s not included in the C-5 area right now, but I think that all of those proposals would have to go before the Historic Preservation Commission, any changes in the historic district, and I would think that would be questioned if they proposed a 12-story building or a 13-story building in that area even now. I would advise that that area be questioned and maybe not singled out to change to stay with the way that it was in the 2004 proposal.

Commissioner Cooper – I had the thought in general about the historic district being generally low and having these taller buildings wrapping around it. I wondered if there were any thoughts about this situation. It was not only brought up just now, but around the whole historic district.

Mr. Evans – In my analysis of it I thought that we would be using the tools that are outlined in 3.9 to try and address that. It doesn’t mean that they are going to go straight up. Hopefully those design tools and through the Design Review process, the buildings will be stepped back and hopefully try to blend with that. It doesn’t necessarily mean that they are going to be. Staff’s analysis was that that would be enough of an assurance.

Mr. Hall – I think your question had to do with what controls are available on those properties that surround the historic district. Guideline 3.9 provides some tools that would be under the decision-making authority of the Design Review Committee and that’s something they could take into account. One thing I also failed to mention and I noticed it’s not part of your staff report, this was presented to the Historic Preservation Commission, this proposed map including the area that’s outlined in red. We’ve had a pretty good working relationship with the Historic Preservation Commission and one thing that we’ve always had to clarify is that in no way are the map, the plans, any amendments we’ve proposed to them, in no way are we proposing to take away the decision-making authority of the Historic Preservation Commission. That’s something they brought up when they commented on this is that they would still have the authority to make decisions about anything in the historic district. As far as what’s immediately gone on outside the historic district, they were aware of that. They did not express any concern that I can recall. This half-block that Patty Miller is referring to, that is in the historic district. The thought of this block is that this block will tend to develop as a whole. It will not necessarily develop half first and then the next half. The east half might develop before the west half, but it’s seen as all part of one project possibly. When we were doing the master plan we recognized that there was a need over here. It wasn’t just us. It was the property owners that were supporting the master plan and supporting the inclusion of the Old Boise East Side Area and the River/Myrtle Urban Renewal District, but we recognized the need over here, the Plan recognizes the need, for a parking garage. If you look at all these sites that surround, in all of these blocks, this block is probably the best location for a public parking garage to support Old Boise. When a public parking garage is built here, it will make it easier for the surface parking lots in this area to redevelop and for this area to be more consistent with our vision of how this area is going to develop. In other words it’s not going to have a bunch of surface parking lots. It’s going to be fairly intense and a good pedestrian experience. This block is pretty important for that reason.
COMMISSIONER COOPER MOVED TO APPROVE CAR06-00010.

COMMISSIONER ORMAN SECONDED THE MOTION.

Commissioner Cooper – I think the tools are here to make sure that we allow some more intense development while controlling the streetscape which I think is the important thing in this part of town, particularly around the historic area. Boise is becoming a larger city and in larger cities they usually have this kind of tools in their ordinances requiring the step-backs at a certain height so that you can have dense development while not having streets that are like canyons. The idea that the tallest floors should be reserved for residential use I think is also a good idea.

Commissioner Fadness - A few weeks ago we rejected a proposal for a high rise building off Parkcenter next to the MK Building. One of the things we heard over and over again from the folks testifying against that project was these need to be downtown and I wholeheartedly endorsed the sentiment that we need more infill and if we are going to have multi-story residential, I believe the most appropriate place for it is downtown.

Commissioner Brunelle – I guess I’ll support this with some reluctance. It just seems fickle that we work really hard on a master plan and then a few months later come back and decided to make, what I think are some fairly significant changes, and I would have thought that something like this would have been integrated and been captured at the front end. I don’t like the idea of raising the height limit on Grove. I don’t think you need to raise the height limit in order to build the public parking garage. I think most of that is surface parking right now anyway, just north of the Rescue Mission. The land to the east of Capitol Park, that’s State endowment land I think. I think that there’s some additional plans for development there. I don’t think it will be residential so I don’t know why that’s included. I think it would be more office development. That’s just to the south of the Old Ada County Court House. I do see some logic in it. The one toehold for my support is that the line was drawn at the edge of the C-5 zone which I infer means they won’t come back and start asking to raise the height limit on everything to the east. We do have projects going forward. Jefferson Place was approved. They’ve got a sign up there behind the Chicago Connection on the north side that it’s being financed. We’ve got the Metropolitan going in down on 15th Street. The Royal Block is being developed. All those are happening under 7 stories so I’m not totally bought into this that it needs to be taller in order to be justified because we’ve got some that are going on.

Commissioner Wilson – As this moves to forward to City Council I will be supporting the motion. I would have liked to have had the Historic Preservation Commission’s notes as part of our staff report. Historic Preservation and Design Review are both part of the Planning & Zoning Commission extensions of that and I think that when they’ve already heard something, we need to be able to see what they thought of it in some more detail. I would recommend those plus our notes be appended as well when this goes forward to City Council because that would have helped me to have a clear picture of what’s going on around the Basque Block and why the Historic Preservation Commission felt comfortable in approving that. I have questions about that
as well as Commissioner Brunelle pointed out, but the fact that Historic Preservation felt that it was okay gives me a level of comfort but I would have liked to have seen their notes.

Commissioner Cooper – I would add that I think we are going to see residential uses on many more properties downtown than we see them now and I think we need to look ahead a little bit and realize that as the city grows more dense, the residential population is going to want to be fairly high up. It’s just going to be good to be down by the street.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

CAR06-00023/Capital City Development Corporation
REQUEST AN AMENDMENT OF CHAPTER 11-20-05 (PARKING OVERLAY DISTRICTS) OF THE BOISE CITY CODE TO EXPAND AND MODIFY THE EXISTING P-1 AND P-2 PARKING DISTRICT BOUNDARIES DOWNTOWN.

Bruce Eggleston presented the staff report with a recommendation of approval.

Commissioner Wilson – Does the City have jurisdiction over the way that these parking garages are managed? One of the things I’ve noticed is CH2MH, the company that I work for, moved into a building where we have a garage that is serviced by CCDC. When we first moved in they said give us the choice of either buying a monthly parking pass, ride a bike or ride a motorcycle. We didn’t think those were good choices for us and asked if there were anything else. They said there is a bus combo package where we could have a bus pass and park for 3 days a week. For many who have tried to take the bus as a commuter, that’s a pretty tall order unless you happen to live right on a route where the bus goes by. Often it takes 2 to 3 transfers to get anywhere on the bus because of the way the bus system is setup right now. What we did was collaborate with CCDC and came up with another parking strategy where we can buy a 3-day pass independent of a bus pass or we could buy a 1-day a week pass at a seriously discounted rate. That has done a lot to encourage use of alternative transportation because it lets the employees know they’ve got a fallback plan or something else they can do. In the parking garages, does the City have an influence or can offer any guidance to CCDC about creating more flexible parking arrangements for the people who are working downtown so that we can achieve all those objectives you just talked about so that people are more encouraged to use transit or alternative modes of transportation or carpool a few days a week, but can still retain some flexibility if they want to stay downtown for an evening event. Is there any kind of influence or flexibility or additional things that we can do there to help develop those goals in these parking districts?

Mr. Eggleston – Perhaps our legal staff and CCDC could address the responsibilities of CCDC to the City Council and how is that encoded. The other answer is some of the things I alluded to. The Communities in Motion Plan is one of them. There’s also a Downtown Circulation Plan we’re looking at. It’s through the planning process in general that all the above, including the previous plan we looked at, that contribute to this. It’s up to a large part, this body, to apply the policies of those plans to try to make all these things work together to make that happen. I think
the purpose such as our bus, their purpose and their programs and the kinds of things that are happening from the Highway District, Compass, the kinds of things that we are currently getting Federal funding for. I think it’s just the whole package going towards that one goal. This is certainly a key part of it, the ability to reduce downtown parking for a large part of the area. We will be seeing some of those plans coming up pretty fast. The Blueprint for Good Growth is another one, the State Street Corridor, Communities in Motion, etc. are all going to directly address that issue for the downtown area. I hope as a city and as a community we are able to mesh all those ideas into something coherent to make it happen the way it’s been described.

Pam Sheldon (Applicant’s Representative/805 W. Idaho/Ste. 305/Boise) – I would like to start with one of the things that staff mentioned as a key concept, but is something that flows through both the Comprehensive Plan for the City and also through our urban renewal plans which have not only been adopted by our board, but also by the City Council, and that is this idea of downtown vitality which has been something that we’ve been emphasizing since the middle of the 80’s and it actually lead to this idea of constructing a public parking system that uses structures. One of the benefits of doing that is that we can transform land that is now occupied by surface parking and get the same amount of parking with a smaller use of land resources and then the land freed from having to be used for parking can be transformed into people-oriented uses like office and residential, retail, restaurants, hotels, etc. The other thing that happens when we have a public parking system is that we can encourage the practice of parking once and walking. One of the interesting things that came out of the Downtown Mobility Study is that we did an an-the-street survey as part of that study to ask people, among other things, how do they get around once they get to downtown. We discovered that 91% of the people who responded to the survey said that they walk. The public parking system does promote a walkable downtown, a more intensive, vital and active downtown and it does reduce the amount of land that’s consumed by parking lots. The system now includes 9 garages which there’s a total of 3,500 spaces. We did a quick calculation today as to how many city blocks would be occupied by parking if those parking spaces were supplied in surface lots. It’s 13 blocks. That’s how much land you would need to take the number of parking spaces that are in the public parking system and supply them through surface parking. The most recent garages that have opened are City Center, the Courthouse Corridor and Myrtle Street and it was the opening of Myrtle Street that prompted this application to the Commission. In the past as we have brought garages close to completion and as they’ve opened, we’ve requested that the City adjust the boundaries of P-1 to reflect the new service areas that’s being covered by the new garage. When we approached this point with the Myrtle Street Garage, we also reassessed the surface areas around the other garages and realized that there were some unevenness in how they had been recognized in the past. We were using roughly a 2-block radius around each of the garages. One of the things that prompted the boundaries that you now see on the map is we took a circle around each of the garages and we made some proposed adjustments. That is how we arrived at the shape of the P-1 proposal. The process that we went through included a close communication with the City staff. Before we even drew a boundary we started in talking with Hal Simmons and as the progress occurred on the boundary we checked in periodically. We also called the major stakeholders in the area where the status of the property would be changing to find out their
comments. We did a mailing to 780 people that would be affected by the changes in the lines and had two community meetings at our offices. We did receive some comments at those meetings that resulted in some adjustments to the boundaries so they arrived at the point you see today. We’re asking for the Commission’s support for a recommendation of approval. We felt that it was appropriate given past practice, that the service from Myrtle Street be recognized. We felt that the new boundaries have some logical tie to the service areas of the other garages and that this does create a situation where there is an incentive created for development in downtown to go to a more intensive level. I would note that this change does not require people to give up their parking. It doesn’t require someone who has a surface parking lot within the P-1 district to now close it. That would be up to the property owners’ choice. But, it does allow people who are developing new projects to make a decision whether or not to supply parking at the conventional rate or at a lower rate. Often what comes into play is both their perception of what they have to supply to satisfy the market and their lender because lenders often have views on how much parking should be supplied with a project. There are some checks and balances in the private marketplace on how much parking is actually produced. But this gives the option of creating an incentive towards reducing the amount of parking that occupies surface lots, the amount of parking that needs to be produced in order to support more intensive development downtown. The public parking system is the responsibility of the CCDC Board of Commissioners. They have the fiduciary responsibility, the financial responsibility, to set the parking rates and set the policies on the packages available and to make sure that they are covering the operating and maintenance cost of the garage system and also the debt that was incurred to build it. So that has some influence on how the parking rates are structured. I’m very glad to hear, Commissioner Wilson, that you were able to work out something that worked for your company. I can certainly take back the message that perhaps that same approach be considered elsewhere in downtown. I think if the Commission would like, our parking and facilities manager could visit one of your meetings to talk more about the bigger picture of how the parking garages function in terms of achieving Comp Plan goals for transportation, for transit, for encouraging alternatives. I can certainly arrange for that if that would be helpful to the Commission. We are interested in trying to use the public parking system to support larger public policy, but we do have to make sure that we have the financial wherewithal to run the system.

Commissioner Fadness – You gave us some interesting statistics about how many spaces are currently provided by the 9 garages downtown. Do you have a ballpark of what the average occupancy rate during the day is? I suppose it varies per garage, do you do estimates of about how many spaces are filled during the weekdays in the 9 garages?

Ms. Sheldon – We have the ability to do all sorts of analysis of parking counts and statistics. Our staff that runs the system and the parking operator that works for us, they do period checks on that. I can get you statistics. I have to say I don’t have them memorized but if you are interested I would be glad to get you statistics on that.
Commissioner Brunelle – I had a question regarding it’s not one of the areas that’s part of what is proposed tonight, but it is an existing area that’s designated area P-1. What it is is the parcel of land south of Front Street between Front and Myrtle bordered on Broadway Avenue. That parcel in question was part of that University Place Development and there was supposed to be a subterranean garage in that area and then the University sold that land to pay its debts when it had its Enron-like implosion of the financing of this project so we didn’t get the Idaho State University Health Science Building or the Thomas Wright Learning Center, yet the new owner of that property, apparently under this designation, could build something without having to provide parking, is that correct?

Ms. Sheldon – Actually the way that area is structured that includes the Courthouse Corridor and the Idaho Place property, it’s set up so that the P-1 district does not go into affect until a public parking garage is constructed. There is a hold on that piece of the P-1 district in a development agreement that was between the City and CCDC. It will not become active unless a parking garage is built because the original plan for Idaho Place envisioned a full block, underground, 1-floor parking garage and since it’s not yet there, the P-1 district is not active.

COMMISSIONER BRUNELLE MOVED TO APPROVE CAR06-23.

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Brunelle – The justification statement in the staff report explains this pretty well where the expansion of reduced parking zones are linked to the availability of newly developed parking structures. We’ve had some new ones added on Myrtle Street and Capitol, so the extension of the P-1 area in the central part of downtown towards the river towards the southwest is a logical extension of the P-1 zone. The question I had about the area bordered by Myrtle, Front and Broadway has an answer to it and I think we should approve this.

Commissioner Wilson – I appreciated the answering of my question about flexible parking passes. I think that we just need to look at that aspect of managing the garages in terms of both cost and also benefits to downtown and enabling people to stay late one or two nights a month if they’d like to or take transit the next of the time. I think there are some financial benefits there to the downtown businesses as well to provide more flexibility and better use of our parking garage space.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

CAR06-00022/Brooks Crowe
Location: 10190 S. Blue Cloud Lane
ANNEX 5 ACRES WITH A ZONING DESIGNATION OF A-1.

Scott Spjute presented the staff report with a recommendation of approval.
Brooks Crowe (Applicant/10190 S. Blue Cloud Lane/Boise) – Concurred with the staff report.

COMMISSIONER WILSON MOVED FOR APPROVAL OF CAR05-22.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I think that this is an area where the city is growing and this does not constitute leap-frog annexation. It’s in alignment with our city boundaries and I think it is appropriate to do for all the reasons, findings and conclusions of law in the staff report.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

CUP06-00043/Jeff Wood & Legacy Commons, LLC.
Location: 318 & 402 W. Iowa Street
CONSTRUCT PUD CONSISTING OF 20 SINGLE FAMILY HOMES ON 2.31 ACRES IN AN R-1C ZONE WITH A REQUEST FOR A VARIANCE FOR THE SERVICE DRIVE SETBACKS.

Angela Wood presented the staff report with a recommendation of approval.

Evelyn Grime (Applicant’s Representative/720 Idaho St./Ste. 20/Boise/83702) – This is an infill site and has never been subdivided. Have developed a cottage/commons product. In this situation there are 2.3 acres with 50% of the site being landscaped and 50% being infrastructure or building space as opposed to about a 30/70 when you look at a typical development project. Met with various city agencies to let them know how the site’s infrastructure will work. All of the building footprints in the proposal are from 1,100 sq. ft. up to about 2,000 sq. ft. and range in width from 20 ft. to 28 ft. The idea is that with a 1 ½ story massing and a smaller footprint, there will be created a living environment that focuses on the shared common space, have at least 15 ft. between buildings and have private yard spaces along with common yard spaces. The service drives meet ACHD and Fire Department requirements. Are able to bring pedestrian pathways internally for people to walk. It also reduces the number of driveways on Iowa Street from 4 points of access to 2. The applicant concurs with the conditions of approval in the staff report. There will be 27 guest parking spaces.

Steve Sagehorn (317 W. Iowa/Boise) – Design looks good but is concerned that vehicle headlights exiting eastern service road will illuminate both his front bedroom and the living room which would detract from his quality of life and the value of his home. Is not opposed to infill, but there is an intersection problem at Iowa and Broadway.

COMMISSIONER WILSON MOVE TO APPROVE CUP06-43 WITH THE FOLLOWING CHANGES TO THE CONDITIONS OF APPROVAL. CONDITION #1 ADD THE SENTENCE: “WHEN A PORCH USING THE STEP-UP DESIGN IS INCLUDED THE HOMES MAY INCREASE IN HEIGHT BY 2 FT. CONDITION #4 ADD THE SENTENCE:
“WALLS, INCLUDING GARAGE DOORS, ARE EXEMPT FROM THIS REQUIREMENT.” THE TWO SENTENCES FOLLOWING THAT ARE FINE. THE 5TH SENTENCE BEING WITH “EXTERNAL TRIM” SHOULD BE CHANGED TO READ: “EXTERNAL TRIM WILL BE NO LESS THAN 2 INCHES WIDE.” CONDITION #7 IT SHOULD BE CHANGED FROM “CLEAR VISION TRIAGE REGULATIONS” TO “CLEAR VISION TRIANGLE REGULATIONS.”

COMMISSIONER ORMAN SECONDED THE MOTION.

Commissioner Wilson – One of the things that I was excited about when I read through the staff report is there was a letter or support from the Southeast Neighborhood Association. It’s nice when we have an infill development project that does have neighborhood support and is designed in such a way that it facilitates individual home ownership which is something that we all don’t see very often. We usually see 4-plex and duplex projects that although they could potentially be owner-occupied, that’s not often the case. I think the applicant has done a good job here with a challenging site.

Commissioner Cooper – I’d also like to commend the applicant and the designer on a quite innovative project. I look at a layout like this and I think most developers would run screaming if they saw something like this. It just shows a lot of resolve on the part of the applicant and I look forward to seeing it built.

Commissioner Brunelle – I’m going to take it on good faith that we can hope that there would be some sort of accommodation that can be made with the neighbors to the south with that one service drive. I don’t see a role for us to be able to do something off site in that situation. The other service drive aligns with Wyoming which is a more acceptable situation than the fact that guest parking is placed off of that service drive. That makes me feel a little bit better. At least guests in the evenings will have their cars already on that other service drive and will be exiting from that drive instead of from the one across the street from the Sagehorns.

Commissioner Orman – I’m familiar with this project and I know that it is the first of its kind in the Treasure Valley. I hope it’s very well received. It’s a very good design. I know that projects similar to this have been done in Seattle and Portland and they have been well received by the communities there.

Commissioner Fadness – I’ve been on the Commission about 5 ½ years now and this is probably the best looking proposal I’ve seen. I really like the idea of the front doors facing the configuration, 50% landscaping and open space is truly impressive. I also want to commend staff in the writing of the conditions. We don’t have a proposal that’s real specific on how each lot will look, but yet the conditions are written such a way so as to protect the City’s interest.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.
CAR06-00021/Hubertus Guenther & Scott Hedrick
Location: 8030 & 8150 W. Emerald St.
REZONE 3.45 ACRES FROM L-OD TO C-2D.

Susan Riggs presented the staff report with a recommendation of denial.

Clinton Yaka (Applicant’s Architect/1010 S. Allante/Boise/83709) – If you look at the staff report on the decisions why this rezone should not be approved, are the same reasons why she said that this should be why the two properties in question were approved and these were 709 Cole Road, which was approved on March 13, 2006 and 7447 W. Emerald Street on January 10, 2004. If you look at the map all the property to the northeast has been developed. Those three buildings are sitting on an island surrounded by C-2 zoning and to me that reflects spot zoning in a reverse fashion. These are the following reasons why we feel that the rezone should be approved. The Boise City Comprehensive Plan Land Use Map designates the site as mixed use. The Land Use Zoning Consistency Matrix lists C-2D as an appropriate zone for the mixed use land designation. The proposed rezone to C-2D does comply with the Comprehensive Plan Policy 8.11.1 which encourages the Boise Towne Square spin-off area to develop with a mixture of residential, office and neighborhood commercial uses which we are. Originally when we designed this building in 1987 it was under the M-3 zone and it was designed as an industrial building. Then it was converted into an office and so now we would like to convert that property back to retail. Policy 8.4.1 states that neighborhood commercial developments are most appropriate at intersections of minor arterials. Policy 9.2 states that we need to protect the economic climate for existing businesses and maintain opportunities for business expansion. As we have stated in our application, the driving force for this rezone is that we cannot fill these buildings with office tenants. We now have a 32% vacancy and by the end of the year it will be 43%. The rezone allows us a wider market to fill these buildings. The rezone will not negatively impact transportation and other public facilities because the level of service on both roadways is classified now as “C” which is an acceptable level by ACHD. These reasons are the same that were used for approval on 709 Cole and 7447 W. Emerald Street.

Commissioner Fadness – Mr. Yaka was just talking about traffic issues. The level of service “C” around that area, that is correct?

Ms. Riggs – That is correct. On page 5 of my report I went into a little bit more detail that based on a scenario of it going to a level of service “D,” the second to last paragraph that states approximately 140 of these vehicle trips per day will occur in the peak of hours. If 61 of the newly generated vehicle trips per day were to travel south on Milwaukee Street, the level of service on Milwaukee Street between Emerald Street and Franklin Road would deteriorate to a level of service “D.” If 856 of the newly generated vehicle trips per day were to travel west on Emerald Street, the level of service on Emerald between Milwaukee and Maple Grove would deteriorate to a level of service “D” as well. These projections are based on a stable transportation system and do not allow for any additional background growth to occur in the area. Staff believes that we cannot assume that the transportation system will be stable due to the
fact that there are vacant parcels of land located directly east of the site that would develop in the future. The applicant is correct that currently the level of service on the roadway, in front of the parcels, are “C.”

Commissioner Fadness – So am I to conclude that when those open spaces are developed staff could oppose those because of traffic? Why are we singling out this development in anticipation? It sounds like we’re saying we don’t want to approve this one because the ones that are now vacant could be developed and make for worse traffic conditions.

Ms. Riggs – I think one of the reasons that staff recommended denial of this application is that this is a built-out, fully functioning office structure with L-OD zoning which meets the intent of the Comprehensive Plan and it provides that mixture of office use within a highly commercial area which generates different trips than the commercial trips. Based on that, this would help achieve the goals of the Comprehensive Plan is how it was envisioned when this area was planned. I think because it does have existing L-OD zoning and is functioning as functioning as an L-OD office building, we’d hate to start losing our mix of use in this area and have it go all commercial.

Mr. Yaka – If the existing 3 buildings were fully occupied, I would not be here today. The reason we are here today is that we can’t make those 3 buildings function as an office use and those 2 office buildings that are directly to the north in the C-2 zone, those are single user buildings and that is why they are there today. If they were multi-tenant uses, they’d be having the same problems that we have.

Commissioner Fadness – Did you consider staff’s recommendations at looking at a PC zone or some sort of mix of office and commercial?

Mr. Yaka – Yes I did, but the three choices did not accomplish what we are trying to accomplish which is trying to see if the market will bear the C-2 zone. By making Parcel A, buildings A & B C-2 and leaving building B, the eastern building, as an L-OD kind of says that C-2 is great. Two-thirds of it is going to be C-2, why not make the whole thing C-2? Going 50-50, that might be a way but we don’t see it. We want to test the market. We want to see if the C-2 zone would do it. If the C-2 zone is passed and after doing some research we decide to demolish all the buildings, then we might entertain the PC zone but right now we would like to have strictly a C-2 zone for the entire 3 buildings.

Commissioner Brunelle – What is your current vacancy rate for the 3 buildings?

Mr. Yaka – 32%. It will be 43% by the end of the year.

Commissioner Brunelle – The vacancy rate for the general area was 19% for office?

Mr. Yaka – Yes.
Rob Hagget (787 E. State/Eagle/Idaho) – I’m in favor of this application. I worked for the W.H. Moore Company for 2 years in their office department trying to lease 3 buildings in this area. One of those buildings is currently located at Emerald and Maple Grove. It’s a 2-story building, very pretty, but it’s 50% vacant. It’s a high-end office use. We tried desperately to lease office space in this area and it’s very difficult at this time. Ten years ago this was a very hot office market. Things were leasing here like crazy. Now it’s change. In this community things change. This evening you approved, unanimously, an application to change the height restriction on office and residential buildings in downtown Boise because you see change. That’s exactly what’s happening up in this area. This corridor, if you go from the mall north on Milwaukee, is a commercial corridor. It’s not an office corridor. It’s very difficult for office patrons to get in and out of office buildings during the day. If you go to the west you see numerous office buildings on Emerald west near Maple Grove and then continuing west to Five Mile, Cloverdale and even those buildings are starting to change. It’s difficult to lease Class A office space in that area. The main reason for me getting up and testifying is that things do change. A rezone application is there for a reason because we don’t live in a vacuum and this is the perfect opportunity to create something that’s a better use for that area and to provide better service for customers, potentially new restaurants. There are numerous retailers that are looking for more space in that area.

Commissioner Fadness – Do you think the reason for the change is traffic?

Mr. Hagget – I think that’s part of it, but I also think that office sectors in this valley have changed. One of the biggest office sectors we have right now is at the corner of Overland and Eagle Road. Winston Moore started that corner with Roger Anderson, two of the biggest office competitors in this valley, and they both realized that that was more of a central area in the valley. Central location is very important to office users. Retail, commercial, restaurants, it’s not necessarily a central location because you are not drawing your daily workers to that location whereas this location, the mall is draw which provides demand for other commercial and retail uses.

Betty Bermensolo (1970 Cannonero/Boise) – I travel that area going back and forth to St. Al’s Hospital going to work. I really feel that we do have to take a look at what additional commercial use in this area is going to represent and maybe single ownership office is possibly what the owner of these parcels needs to be looking at instead of individual ownership of parts of each of the buildings because it’s a very traveled corridor. From my understanding of talking to other developers that do office, this area would still be very desirable on a single ownership basis for each of the buildings rather than individual. Office is a destination use rather than the real acceleration of trips that are seen by a commercial use so if staff has pointed out that this area is going to be dramatically impacted by additional commercial, I would hope that the consideration of staff would be one of the concerns that the Commission has.
Commissioner Brunelle – In the write-up, the opening statement of the summary said: “During the planning stages of the Boise Towne Square, it was assumed that there would be 65% commercial development, 35% office development of the 1.1 million square feet of spin-off area.” Who made that assumption? How close are we to that balance of the 65-35? Was the assumption part of the approval process for the mall?

Ms. Riggs – That is correct. This statement came from the original staff report going back to 1984. I went back in the history file to try and get some idea of what was envisioned for the mall’s spin-off area would be developed. That was from a staff report that was written for the first staff report that was looking at the development of this area.

Commissioner Brunelle – Where are we as far as the 65-35? Did you have a chance to assess that?

Ms. Riggs – I did not have a chance to assess that. I’m sure we’ve exceeded the 65 greatly. I think the whole vision that we had back in the early 80’s when the mall was evolving was to create a mix and I think we’re just trying to hold on to what little mix we have left in this area.

Mr. Yaka – The Comprehensive Plan, Policy 9.2 states that we need to protect the economic climate for existing businesses and maintain opportunities for business expansion, and that’s why were here. If the buildings were full, fully leased, we would not be here tonight.

COMMISSIONER WILSON MOVED TO DENY CAR06-21.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I understand the business case for trying to change these over to commercial and I understand that we’re already way behind the curve on having mixed uses out there, but what I don’t understand is that the applicant has come to us with a request for a rezone that doesn’t have any kind of plan attached to it. Usually when we do a rezone it’s because we think it’s for the good of the community or we think it’s because it compatible with adjacent uses or it furthers the planning process somehow. But by giving us an application that doesn’t have any kind of plan associated with it and saying that the intension of rezoning is to see what the market will bear and to test the market, that’s not why we do rezones. We don’t do rezones to test the market. We do rezones once we know that we’ve got a use that we want to put into a place and we want to be able to show that it’s compatible to adjacent uses. That’s why I’ve made a motion to deny this. It’s not necessarily that I disagree with you on what the market conditions are or what the reality of the area is or that the Comprehensive Plan doesn’t also support business, it’s that I don’t see a good case here for an argument for a rezone that’s going to affect this property for the rest of this property’s existence.

Commissioner Cooper – I support the motion. I’m really sold on the traffic issue. At any time of day it’s awful driving out there and both streets involved would be reduced to a level of
service ‘D’ with commercial. I agree that despite market pressures to put in something that currently works at this time, we really have to hold onto what’s left of the mixed use aspects of this area. I’m also concerned that it’s really an open-ended request to just try this without any specific plan as to what they really want to do.

Commissioner Brunelle – I would be willing to give a try to one of the buildings, split parcel A or rezone parcel B because then you would be doing a test. What I see here is kind of similar to the ham and eggs where the chicken is involved and the pig is committed and it sounds like what we’re being asked to do here is make a full commitment to rezone the entire thing. I could see merit to testing. One of the buildings could be rezoned commercial. Commercial uses on that building could probably provide a service to the other four buildings that house office uses. It’s not a really pedestrian friendly area. It’s surrounded on 4 sides by multi-lane streets. It would provide at least some pedestrian use or service to the workers within there, but to just do a full rezone for the entire parcel, I can’t support that. If the applicant were to come back in the future with a partial rezone, work with staff perhaps on a development agreement on one of the parcels to test it, then I’m all for testing.

Commissioner Orman – I concur with Commissioner Brunelle’s opinion that we look at rezoning a portion the site while maintaining a portion being office. I do have to say that I have worked in this area in my day job and the market for office along Emerald is not good. Along Emerald and Cole Road especially, it’s dead. I understand why the applicant wants the change, but I also agree with Commissioner Wilson that he should have a definitive plan as to what the change is going to be. But I know the numbers that he is spouting out to be correct. The vacancy rates for office in this area are high and they are getting higher by the year. The rental rates are going down by the year and there is good demand out there for retail but I think we have to have something in hand to see before we can allow that to happen.

MOTION TO DENY REZONE CARRIED UNANIMOUSLY.

**CAR06-00025/Canddle Development**
Location: 1301 S. Bird Street
REZONE 5.03 ACRES FROM A-1 TO R-3D.

**CUP06-00046/Canddle Development**
Location: 1301 S. Bird Street
CONSTRUCT 196 APARTMENT UNITS ON 5.03 ACRES IN A PROPOSED R-3D ZONE.

Susan Riggs presented the staff report with a recommendation of approval.

Commissioner Cooper – Do we have a drawing that shows where the drainage swales are?

Ms. Riggs – We don’t. At this stage there’s no design but maybe the applicant can address the swales.
Sabrena Whitehead (Applicant’s Representative/Brigg’s Engineering/1800 W. Overland Rd./Boise/83705) – When we do construction plans, drainage swales will be a part of those and be indicated with an engineer stamp as well as working with Public Works. We’re in conceptual mode right now. Vintage is a 194 unit affordable housing development for seniors. This development will offer amenities such as walking paths, pocket parks, rose gardens, pools, spa, social rooms and a library. Vintage at Boise is a tiered 3-story building which will provide 94 1-bedroom units and 100 2-bedroom units with an overall density of 43.3 units per acre. The staff report states that the R-3 district classification is intended to provide higher density in well integrated residential zones into the community to accommodate demonstrated need for residential uses convenient to shopping, recreation, cultural and other concentrated community facilities and to provide an orderly transition for more intensive high density uses to less intensive lower density uses. This statement is exactly what our project delivers. The subject site is surrounded by retail shops, restaurants, Edwards Theater, Walmart and numerous other locations. Since this rezone helped minimize the impact of urban sprawl, it also minimizes the need for dependency on automobiles since there is a strong opportunity for the residences to walk to these numerous locations, therefore providing smart growth. Now only does this project provide an opportunity for a well integrated area within the City of Boise, but also provides a transitional buffer from low density single family developments to intensive commercial developments therefore leaving a large full transition from single family to multi-family to commercial uses as stated on page 7 of the staff report. Two neighborhood meetings have been conducted, one on March 22nd and the second one was on April 20th. On March 22nd some of the neighbors’ concerns were that the proposed 4-story building, which was our original conceptual plan, would be too intrusive and too overbearing not allowing privacy for the neighbors of Chase Street. Another concern was that they could not visualize what it would look like from their back yard. The developer took all of these considerations and went back to the drawing board. The following changes were made. A 15 ft. landscape setback was provided to buffer the neighbors’ back yards. The 4-story building was modified to what is in front of you this evening, a 3-story tiered building. Visual Genesis was hired to do a photo simulation of what the building would appear like from the neighbors’ back yards in the future. On April 20th another neighborhood meeting was conducted to present the changes. The Chase Street neighbors were still in opposition listing concerns of traffic, building height, density, loss of use, loss of morning sunshine and the color of paint. As far as traffic issues, this development is punching through Bird Street which should help eliminate and ease the dependency of Overland Road. It is also noted that the senior facility will only generate 682 vehicle trips per day. Hopefully with its location with surrounding shopping activities, walking would be a more preferred mode of transportation. The developer has done all he can to mitigate the building height having the single levels closest to residents of Chase Street and as far the loss of use and sunlight without an easement it cannot be protected. Staff’s conclusion was that the developer had addressed several of the issues and that providing a 6 ft. high vinyl fence and a 15 ft. wide solid landscape buffer, therefore leaving the neighbors’ back yards heavily screened. Staff also concluded that this senior development would be much less intensive than a typical apartment complex and would have fewer vehicle trips. The developer has reviewed the staff report and the recommended
conditions and agrees to meet all requirements set forth in the staff report. This is a quality development that is giving opportunity to many seniors a quality of life that is currently not available to them. The concerns that the Chase Street neighbors have voiced have not be overlooked. Great time and effort has been made by the developer to mitigate as much as possible. This rezone compliments the City of Boise’s Comprehensive Plan.

Charles Morgan (Applicant’s Architect/7301 Beverly Ln./Everett, WA.) – I have been the architect for Canddle Development on all their senior project and this is the 17th project. The reason why we chose this particular location is that it’s a nice flat spot. It has the utilities and it is within walking distance of shopping, entertainment and restaurants, etc. which is a very attractive thing for seniors, yet it’s not really right on a busy street which is another desirable situation. The third objective was that the price was right. This is the biggest problem that we have in developing affordable housing and that is that the land prices are sky high due to condominiums. They put the land prices out of sight. This is why we have to push for as many units as we can possibly get to be able to justify the land prices. This particular piece of ground does work out. The other reason why we’re going for the density that we’re doing is to be able to provide a building that has the amenities that this one does. In addition to what was mentioned, it has 2 TV theaters, a computer room, a beauty shop, 2 private dining rooms, a game room and an activities room as well as a large amount of open space outside. All the units have their own private deck or a ground floor patio. Canddle Development specializes in this type of building. Canddle have their own management company and they have no intention of building this and reselling it. It is an elevator building, fully sprinkled and has all of the ADA requirements that are necessary.

Commissioner Orman – How tall would the western landscape be?

Mr. Morgan – It can be as high as agreed upon. It’s got the space there to produce something that would be 30 to 40 ft. tall if you wanted it that high. But, if the neighbors are concerned about their view, that really makes it even worse. We were anticipating trees of about 15 ft.

Betty Bermensolo (Representing the Southwest Ada County Alliance/1070 Cannonero/Boise) – I’d like to start with something that came out of the introduction of the 1997 Boise Comp Plan. It states, in defining it’s purpose for the Comp Plan, that there’s a challenge and that is to continue to accommodate economic growth and needs while protecting the quality of life components that Boiseans find so important. One of those negative impacts that contradict the quality of life components that Boiseans treasure was: “the loss of a neighborhood feel and integrity.” With this proposal the Southwest Ada County Alliance feels that the placement of a 3-story residence immediately adjacent to a single story neighborhood would result in that “loss of neighborhood feel and integrity” simply by its mass. If you have a neighborhood like the Chase Street residential community, it’s been there a long time and seen a lot of changes, but having I don’t know if they are half acres parcels, half acre parcels, single family homes, single story homes and you place a 6 ft. fence and within 90 ft. a 3-story, much higher density, at some point in time you have to decide what is fair, what is a justifiable transition from a residential
that is half-acre, single family, single story homes to what is going to be the appropriate compromise for a residential community. The Southwest Ada County Alliance does not feel that a residence that has 194 units on that small of a parcel is a fair compromise. We have no objection that this proposal fits somewhere in the scheme of even the southwest, but certainly not adjacent to a single family, single story neighborhood. I think that’s the whole challenge in the Comprehensive Plan is to find a compromise that fits not just the needs of the developer. Certainly there is a need for this type of a residence for seniors, but if it had open space, if it had vacant lots on either side, but it is up against this neighborhood. There are a number of suitable opportunities that have presented themselves in this immediate area that would be embraced by the Southwest Ada County Alliance. There are patio homes, senior residences right there within a half mile that are either single story office gabled buildings or single story patio homes that have been embraced by the Southwest Ada County Alliance and by the neighborhoods that they are adjacent to. This proposal is so diverse from the neighborhood that it’s adjacent to, I just encourage this Commission to look at the mass of it. By comparison, look at the pictures that the neighbors have brought and ask yourself if that would be a suitable location for this proposal. Maybe the RUT parcel to the east might be suitable, but not this location where it sits immediately to the east of that residential community.

Jim Storey (1607 S. Ash Park Ln./Boise) – I was asked to represent the neighbors. I would like to give you pictures of something that I mentioned earlier.

Commissioner Fadness – For the record we’ve received 2 pictures from Mr. Storey.

Mr. Storey – I do have a hotel with 107, and these are all very nice suites in it, that would be equivalent to what he is offering. If you look at the overhead, what you are looking at is a house, there is a street and there is 20 ft. to that building so you’ve got 40 ft. for the street and then you’ve got a building with at least 15 to 20 ft. of lawn in front if it. This hotel is not completed yet. This picture represents what it looks like. Remember the hotel is on Ash Park. I am on Pettinger Road so we’re 1½ blocks away. I don’t care how far you want to offset the roof. This building is 3 stories high but with a roof on it like this one, it makes it a lot taller, closer to 4. The things that were represented by the architect, at the far edge there was a flat topped building that was 3 stories high. It makes all the difference in the world. The thing about it is that I want you to understand that when I walked Ash Park Lane yesterday everything and all the homes were full until I got across from that hotel and now there is not one house that is not either up for sale or totally empty. There is one small parcel that has 12 rentals in it and those 12 rentals used to be full all the time. There’s 2 of them that are full now. This is the type of thing that occurs when we get something that’s mismatched. With a mismatch of residential and a building this tall, I don’t care how you develop it, how you put it in, you can’t put a wall that’s going to protect the residents. We have a lot of old people here and I guarantee you they are all leaving.

Commissioner Brunelle – That photograph you showed, in what direction were we looking at?
Mr. Storey – East.

Commissioner Cooper – Is this somewhere near the parcel in question?

Mr. Storey – It’s 4 blocks away.

Lana Hale (1320 Chase St./Boise/83709) – I did bring some pictures. … inaudible.

Commissioner Fadness – We’ve received from Ms. Hale 3 pictures.

Ms. Hale – I’ve been here 42 years and most of us have been there a long time. We knew there were going to be lots of commercial property. We’ve dealt with the Overland and Chase Street area when it was wanting to go retail and we got L-OD and there’s a beautiful building there. … inaudible. The first commercial building that was brought into our midst was a building that was going to be a mall and they kind of led us to believe that it was going to be a lot less higher, but this is we see now. … inaudible.

Commissioner Fadness – I’ve received 2 more pictures for the record.

Ms. Hale – This is what is being done on the opposite side of our deal. They are going with townhouses. We went around and looked at the nice places that we thought were great on Overland and in the area between Maple Grove. This is what we were anticipating to have, it either being commercial in other words it’s a 1-story building that compliments us. On Overland I know that L-OD is apparently bad but we haven’t seen it where we are at. Not one place around Lavinna area is vacant and they are all 1-story buildings. It’s going to be devastating for us. There will be only 3 hours of sunlight. We don’t mind improvements there, we would just like to see something besides somebody looking at us.

Commissioner Russell – I was wondering if staff could tell us the distance is between the back of that commercial building on the C-2 property to the block wall we’re seeing in the photograph?

Ms. Riggs – It’s about a 20 ft. wide alleyway that does down there and then it’s office. It’s a house that abuts so I would guess it’s about 40 to 50 ft.

Commissioner Russell – So it’s roughly 20 ft. from the back of that building to the wall separates them.

Ms. Riggs – Correct.

Commissioner Brunelle – When they are presenting us an application to build housing for senior citizens, is that a commitment that it would only be senior citizens or can this at some time revert to rental housing for any and all?
Ms. Riggs – This would be a specific plan that’s approved for seniors because the parking is based on .04 parking spaces per unit versus the standard requirement for a condominium which would be 1.8 or 1.5 depending on what it came in at so it would not meet the parking requirements for anything but senior housing. We can also make it a condition of approval that this is for senior living facility only.

Commissioner Brunelle – So we address senior housing specifically in our ordinance through parking. The requirement is 93 parking spaces. This is providing 172.

Ms. Riggs – That is correct.

Commissioner Fadness – The county zoning to the east, does that stand for urban rural transition?

Ms. Riggs – Yes.

Commissioner Fadness – And all the other zoning around, the only residential is the Chase Street. There’s some a little further to the west, R-1A, but all the other zoning around it is either commercial or some sort of limited office, is that correct?

Ms. Riggs – That is correct. In conclusion staff is in support of this project. We think It’s well designed and appropriate for the area. The City is desperately in need of high density residential development and this would serve that need as well as provide needed affordable housing for seniors.

Mr. Morgan – I’d like to address the question on assurance that this will stay a senior project. In the deed restrictions and covenants of the financing, it is illegal for them to sell or refinance this building. It has to stay senior. There is no way it can be changed. The problem we constantly run into wherever we go is that the only ground that we can afford quite often ends up being adjacent to some residential. Here is a project that was completed just 2 years ago in Mt. Vernon, Washington. It’s a 3-story building that is right adjacent to a housing development. Those people at first screamed their head off when we came in. After the building was completed we haven’t heard a peep out of them. They seem to be very happy with that. We put up the fencing, we put up the landscaping, etc. that they required. The ground was zoned commercial and as result they realized that this was a better product to come in there than if it were a commercial building. Affordable housing that we are trying to produce is a very difficult item to be able to do. We hope that this site can be approved because it does work.

Commissioner Russell – What is the age limit of your residents?

Mr. Morgan – 55 minimum. The average age is 75. 60% of them are women.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-25 FROM A-1 TO R-3D.
COMMISSIONER ORMAN SECONDED THE MOTION.

Commissioner Wilson – One of the things that I keep coming back to as more projects come up in this area is that the Comprehensive Plan Map designates this entire area as commercial. I’m very heartened by the fact that someone is coming with a residential proposal. It may not be the kind of residential proposal that the neighborhood envisions as far as patio homes, single story, etc., but I think that it will help in the long-run to preserve a mix of uses in this commercial area if we’ve got people coming in with a variety of projects. One of the things that we don’t have control over is what kinds of projects people come in with so we can’t just deny everything on a particular piece of property until it comes in with a rezone with a single story office. I think that would constitute spot zoning or something along those lines. I think that because of the surrounding commercial uses and the fact that the Comp Plan has designated that for this area but that there still is this neighborhood there that we need to protect, I’m personally relieved that what’s come in is a residential use and a less intensive residential use than what certainly could be proposed here.

Commissioner Russell – I think that the design consultants have done a good job moving these buildings back, working in some variable heights into the building façade. I think when you look at that photograph that has the commercial development right up to the back side of that home, I think that is a bad situation and I would definitely support you 100% if we were looking at that exact type of development going in here. I think that coming in with this zoning request and this type of project, I think we really are preserving the rear yards of these existing residences. I understand their concerns and the fact these are 3-story buildings but I think when you look at the landscape buffers, I actually think in this case it’s a benefit to have the parking separating the residential from the proposed building, then you look at the stair-stepping along with a pretty nice architectural façade, I think they’ve gone to great lengths to mitigate that impact. I don’t have a lot of concerns with the sun angles. I think that although the very early morning sun, you might have watch it rise above this building, I think that once the sun gets up high in the sky there’s going to be plenty of sun shining down on the homes and I don’t think there will be a huge impact there. With those things considered, I’m in support of the project.

Commissioner Orman – I would like to echo Commissioner Wilson’s sentiments and thoughts. I think that it is a good thing to see residential going into this area. It’s primarily commercial. This appears to be a nice long term use. The other thing I’m really heartened by is our plan for mass transit comes in line and this area is being served we’ll be able to work with the seniors that will need the mass transit and hopefully they will be able to utilize it.

Commissioner Brunelle – What we are doing here, the motion has to do with the zoning designation which will be approved by the City Council in the future and we are only making a recommendation to the Council to make this change. I’m going to offer some arguments against the motion and against the R-3 rezone. It has nothing to do with the project. I think the project is excellent in many respects, but what I hope the Council carefully considers here is I think a
policy question of an R-3 designation that is immediately adjacent on a property line to an R-1C. I think that is too dramatic a step, especially in this case where we are looking at half-acre lots that would back up immediately to land that would be designated R-3. I think it would be bad public policy to pursue those types of rezones in the future. I think there are other zoning classifications that could provide a more robust set of regulations on height limits and bulk through R-2 or R-1C with a higher density, but I’m just raising some arguments that I hope the Council considers when they make the rezone decision on this.

Commissioner Russell – Somebody could come in here and pretty ask for C-2D. It ties in. It’s adjacent to a C-2D parcel. It ties into the north with a C-3D and I think that you could see something very similar to the project that’s going on to the south of this proposed site. I think that this product, even though I respect Commissioner Brunelle’s comments on some of the residential zones that he talked to, but I think that what we are seeing here tonight is substantially better than what a C-2D zone may allow on this parcel which I think could easily be obtained if they decided what that’s what they wanted to get if they went through the process. I’m really happy with the project. I think it’s a good compromise. I think it will benefit the area.

Commissioner Wilson – Commissioner Russell’s argument is exactly why I brought up the Land Use Planning Matrix in the Comprehensive Plan that does designate this area as commercial. I think that somebody could easily justify putting commercial in this area and I think, as we discussed earlier this evening, in the greater Milwaukee/Emerald area, once you start letting one use become too dominant you start to have traffic issues and all kinds of problems so I’m really actually relieved that some other use other than commercial is coming into this parcel.

MOTION TO APPROVE THE REZONE CARRIED WITH COMMISSIONER BRUNELLE VOTING AGAINST.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-00046 WITH AN ADDITIONAL CONDITION OF APPROVAL THAT THE USE ON THE SITE BE LIMITED TO A SENIOR LIVING FACILITY.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I think that adding the condition that this is restricted to a senior living facility would address some of the comments that Commissioner Brunelle brought up earlier that in fact there could have been reduced parking on this, but the parking was allowed to be expanded so we just need to take an additional step to make sure that this is the use that’s intended and provide some guarantee to the neighbors that this won’t change to some other use. I think the buildings are structured well and that staff has made a reasonable decision in approve it the way that it is.

Commissioner Brunelle – I’m going to support this motion as opposed to the rezone where we recommended to the City Council. This is one where we need to make the decision and I feel
I’m bound to support this on its merits for several reasons. One, the design of it and I think a lot of the particulars that Commissioner Russell already pointed out are in many ways the best situation as far as the impact to the neighborhood that you could end up with where you have a 15 ft. setback, which is the requirement for an R-3 zone, and then you have the parking and then you have the buildings. It sets it back quite well from the back yards of the neighbors. I’d agree with Betty Bermensolo that the property on the other side of Bird Street would be a better location, but it’s not in the city. It’s not what’s at question tonight. We have to address what we’ve been handed. The connection of Bird Street to where it can connect with the road to the north I think is another argument in favor of this project because it’s going to allow people who live in this area to actually be able to access a lot of the opportunities for shopping at the Walmart grocery store and not have to get out onto Overland Road. They can take the back roads into that shopping area. One of those two Federal buildings on the other side of this photograph where the fences are, one of them houses the local Social Security Office and what could be better for senior housing then to be close to that agency.

Commissioner Cooper – I would just restate the fact that after the applicant showed the other similar project and there were some escalations from the neighbors, I would like to point out that this project actually improves on that one in several respects. That project did not step down toward the neighborhood. It had very unsubstantial planting along the side. I think what this one amounts to is that the closest separation is 130 ft. and at the end of that 130 ft. is a 1-story building end. From what I can see from the drawing, 130 ft. equals about the entire depth of the lot that that house is on so I think that once this goes up you will be surprised. It could certainly be a lot worse.

MOTION TO APPROVE THE CONDITIONAL USE PERMIT CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
July 10, 2006

Commission Members Present
Brandy Wilson/Chairman, Brian Ellsworth, Andy Brunelle, Amber Van Ocker & Lauren McLean.

Staff Members Present
Angela Wood, Carl Miller, Scott Spjute, Vicki Van Vliet, Mary Watson (Legal).

Deferrals

CUP06-00049/Idaho Fish & Game – COMMISSIONER VAN OCKER MOVED TO DEFER TO AUGUST 7, 2006. COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CFH06-000027 & CFH06-00028/Boise City Parks & Recreation
Location: 700 S. Capitol Blvd. – Julia Davis Park
CONSTRUCT A TROUT SPAWNING CREEK (SIDE CHANNEL) WITHIN GREENBELT & RIPARIAN SETBACK LANDS AND WATERS IN AN A-1 ZONE.

SUB06-00039/Fleur De Lys Condominiums
Location: On the east side of Mercer south of State Street
2-LOT (7 UNIT) MULTI-FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00040/Coldstream Subdivision
Location: On the west side of N. Collister north of State Street.
5-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00041/Six Story Condominiums
Location: On the south side of W. Jefferson between 3rd and 4th Streets
43-UNIT CONDOMINIUM SUBDIVISION.

SOS06-00009/Boulder Heights Subdivision #3
REQUEST A WAIVER OF THE BOISE CITY SUBDIVISION ORDINANCE FOR AN EXTENSION FOR FILING THE FINAL PLAT.

SUB05-00118/Salome Terrace Subdivision
Location: On the west side of N. Shamrock between Glen Ellyn and Tahiti
REVISED PLAT FOR AN 8-LOT, SINGLE FAMILY RESIDENTIAL SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACTS, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER ELLSWORTH AND THE MOTION CARRIED WITH COMMISSIONER BRUNELLE ABSTAINING FROM CFH06-27 & CHF06-28.

Regular Agenda

CAR06-00024/Boise State University
AMEND THE BOISE CITY COMPREHENSIVE PLAN TO ADOPT THE UPDATED BOISE STATE UNIVERSITY MASTER PLAN BY REFERENCE.

Lance Evans presented the staff report with a recommendation of approval.

Whitney Vericona (Applicant’s Representative/1910 University Dr./Boise) – This an update to the 1997 Master Plan. We’ve had a lot of community meetings and meetings with folks on campus, various groups, students, faculty, staff and it’s been a long process. It’s important to note that we’re not adding any more land or changes in use. This is really just bringing things up to date. It’s a concept plan, no major changes but there are still are changes. One of the things that has changed since 1997 is we’ve changed focus and now we are becoming a major metropolitan research university. How does that translate into the physical appearance of the University? Some of the ways you see it reflected in the master plan are things like we’ll have taller buildings, a more urban feel, an emphasis on the pedestrian walkways, more research buildings and more residential buildings as we become more of a traditional college campus. With the change is a change in the way we group the buildings. South of University Drive, the area down there will focus more on research, science and technology. The older campus where the quad is now, which is the main center of campus today that will be more liberal arts education. We’re going to orient the buildings towards the river. We’re acknowledging more of the greenbelt. We’re adding additions on the north side of campus. The gateway on Capitol Blvd. is another big one. You’ve probably heard about how we recently acquired the University Inn. Eventually that will be demolished. It will be the entrance to campus. We’ve worked with the City on the Capitol Blvd. on how the new buildings will look and where they will go. One of
the things the master plan is seeking to do is integrate the University with the community, not just on Capitol Blvd. but also in the neighborhoods. With that we’re also stepping down the buildings on the sides. The buildings on the interior of the campus will be taller, but as we go towards the neighborhoods they will step down. You can see on the southern edge that is all residential use. The Sellin Collage is no longer on our master plan. That was that horseshoe-shaped road. Most of those uses, the college of applied technology, are going to go out to the west campus at Nampa. I want to get to some of staff’s concerns. About the parking being distributed around the perimeter, we have actually changed that. In the original 97 Master Plan there was a parking garage. It probably would be on Grant and Beacon. While that parking garage is no longer there it’s now by the stadium. Also you’ll be hearing from us about a new parking garage going in this fall. We have changed that location. It will be moved 1 block north. That decision just happened very recently. We are moving them towards the center of campus, but I do like the idea that they are distributed throughout the campus which will reduce the traffic impact on the neighborhood. ACHD, when we talked to them about closing University Drive or boulevardizing University Drive, we were surprised at how little they resisted. Their traffic counts reflect that most of the traffic on University Drive comes to and from the University. There is not a lot of through traffic on that street. We didn’t hear from ACHD that they were opposed to that in any way. The way we’ve got it now is that as we reduce the size of some of these streets, we will open them up for big games. We will have things such as bollards that when we anticipate a big traffic event we will pull those and traffic will flow through. Traffic will be redirected towards Lincoln and then on Beacon instead of going up University. ACHD requested a traffic study. A traffic study of the entire campus that’s going to take 30, 40, 50 years to realize this plan won’t be that helpful. We’re not opposed to an idea of traffic studies, but only for certain projects where they seem appropriate because it’s not a good use of public funds because the traffic study will get stale. All of the uses around the campus are going to change before we can get a chance to build things. The difference between the 1997 and the plan we are presenting now, you can see that things have really changed. We hadn’t had enough time to build all those buildings so if we’d done a traffic study in 1997, it wouldn’t have told us much because things have changed so much. So that’s why we are resisting one overall master traffic study.

Commissioner Brunelle – In closing the public streets, what portion of University Drive are you looking at? Is it from the intersection of University and Lincoln east towards Broadway towards where that new street would open up?

Ms. Vericona – Up.

Commissioner Brunelle – So traffic on University would then head down towards Beacon and a lot of it would go to that parking garage on Lincoln.

Ms. Vericona – Right, with the idea that coming off of Broadway you would park in the parking garage near the stadium and then get out and walk. We already have shuttles so we’re really trying to reduce the amount of driving through campus.
Boise City Planning & Zoning Commission
Minutes of
July 10, 2006
Page 4

Commissioner Brunelle – You mentioned on some of the streets you would have bollards. Which ones were you talking about in that case?

Ms. Vericona – Those are streets like Euclid, the north/south streets in the expansion area. With buildings across we’ll vacate the alleys.

Mr. Evans – In the staff report I included a policy in our Comprehensive Plan that is actually deleted, so under Section 2.16, Higher Education, that goal, Objective 1, Policy 11 has actually been deleted from the plan for a couple of years and it should not be in the report. It should be deleted.

COMMISSIONER BRUNELLE MOVED TO APPROVE CAR06-00024.

COMMISSIONER MCLEAN SECONDED THE MOTION.

Commissioner Brunelle – I wanted to hear some more discussion about what the Ada County Highway District’s concerns were. Their letter that’s in the record here did point out the need for a traffic study given the large number of buildings and some changes to the public streets on this campus. What we heard tonight from the University is, and it was in their letter of response, what we are talking about is more of a concept plan that has a lot of fungible elements to it where some of the buildings may be across the street from where they are shown in the master plan drawings that were given to us. To undertake a traffic study of the entire build-out when we’re talking about something that would be many decades in the making, I can agree with the University seeing that necessary expense of that might not yield a lot of information. I’m willing to go along with the University’s argument on that when it pertains to the buildings. I think they should move forward with some sort of a traffic impact study, specifically with what the effects would be of closure of University Drive and shifting the traffic over to Lincoln as well as the closure of Euclid and the other north/south streets because that’s a fairly discrete action. It’s not going to require them to be building anything so you can’t use the argument we don’t know when we’re going to build it, but you would be able to just say what if we didn’t have traffic on University. It would seem to me that that would be a fairly straightforward exercise you could take. I would think you could take the approach that rather than looking at the location of the buildings and the square footage of the buildings that would be built in the future as driving your traffic impact study, you just use your enrollment projections and if enrollment’s going to continue to increase at 1% a year for the next 15 years as this master plan says, then let’s see what the traffic implications of that are with and without University Drive open. I don’t think that would be too difficult to undertake. I’m willing to support this. I’m hopeful that the City Council will listen to my comments and maybe something can be worked out between the City and the University. I know that Mayor Bieter and President Kustra meet on a monthly basis to identify things where we can work together and I think this might be one of the items that we could collaborate with the University and the Highway District on.
MOTION FOR APPROVAL CARRIED WITH COMMISSIONER VAN OCKER ABSTAINING FROM THE DISCUSSION AND VOTING DUE TO A CONFLICT OF INTEREST.

CAR06-00027/April Rinehart
Location: 12649 W. Goldenrod Ave.
REZONE 4.82 ACRES FROM A-1 TO R-1C.

Scott Spjute presented the staff report with a recommendation of approval.

April Rinehart (Applicant/12649 W. Goldenrod Ave./Boise) – Concurred with the staff report.

Ken Jones (12600 W. Goldenrod/Boise/83713) – I’m here to request that this be rezoned as R-1B which is what Traditions next door is zoned as. We have the same concerns that we’ve always had when people have wanted to rezone here and that is that street is only about 22 to 26 feet wide. I know it will be wider when they build that, but not the rest of the street. There isn’t any kind of real plan when you exit from Goldenrod onto Cloverdale and if that goes to a 5-lane road you will have a considerable amount of traffic with people trying to get out of Goldenrod onto Cloverdale so traffic will be a problem. There’s a major problem with this subdivision and that is unless these people find an excellent water engineer, there’s going to be some serious problems with irrigation. All those properties out there are in Settler’s Irrigation District and the water comes through a ditch called Schneider #9. We combine all of that water so when you look at the lots that are right north of Goldenrod and you see the 1-acre lots, those people get the irrigation water on Monday. Then the rest of the properties get it at various other times. We have to combine the water in order for people to have enough water to irrigate because when you pay your water bill, you pay for one inch of water over one acre. Now their water schedule for that 4.82 acres is only form 5 on Tuesday to 8:00 a.m. on Wednesday. They will have to try to irrigate 19 homes in that period of time. When you start putting 90 degree turns in and a pumping system to handle that water to do it, and they only get it every 7 days. It’s going to be very difficult to change that schedule so the smaller number of homes you put on there, you can put more sprinklers on an area, that’s why I would really think you need to consider to make this R-1B and make it no more than 3 homes per acre unless there’s a good engineer that can engineer it. I can guarantee it that whomever engineered Ladere Park’s and Nalley Springs irrigation system didn’t know what they were doing because they have had serious problems with their pumps and their irrigation system, particularly when we have low water years. Please consider going to R-1B.

Commissioner Ellsworth – Can’t they use United Water to irrigate?

Mr. Jones – Sure, but look what you pay for United Water compared to what they are going to be paying to Settler’s Irrigation District. The other thing you have to consider is they will have to have an association to maintain their street, irrigation system, etc. This has been a major
problem with … Park. Their pump went out and they haven’t had enough money to put in the other pump, so they’ve only had one pump for 2 years.

Mark Graves (4393 Edelweiss St./Boise/83713) – To the north of me there’s about 9 acres and that is the Gem Crest Dog Kennel that’s been there for 30 years. They have a customer base of about 5,000 customers. It generates a lot of traffic on a small, 2-lane road. That’s my concern that along with what’s already there and what is proposed is too much traffic for that street. I would be in favor of R-1B zoning to get larger lots, nicer homes. I think Traditions is an excellent development and that’s what I’d like to see developed on my property one day, larger lots and nicer homes. I know there’s a great demand for it. I’ve been offered by developers to buy me out several times.

Steve Hilton (12600 W. Edna/Boise/83713) – The Traditions Homeowners Association is not opposed to the development of this property, however we do request any development be in compliance with the Traditions Development. We would like to see the property rezoned to R-1B rather than R-1C. The Traditions’ lot size average is .34 acres. We request that the lot size in the proposed subdivision be limited to an average size of .34 acres also with no lots smaller than .25 acres. We also have concerns with the traffic flow on Goldenrod and the Ginger Creek/Edelweiss connection through the west and south. There’s quite a few cars that go through there to Eagle Road. There’s a way to wind through the subdivisions and people figure it out and so there’s already quite a bit of traffic running through there. There’s speed bumps to slow them down and we would like to see this developed in a manner that would try not to exacerbate the problem. There was a fatality very close to the corner of Goldenrod and Cloverdale about a year and a half ago, a pedestrian and a car accident. It was where the road went from 5 lanes down to 2 lanes. We are very concerned. We’re sensitized from that accident to being concerned about accommodating foot traffic as well as bicycles and motor traffic. There’s several schools. There’s Centennial High School that’s very close. There’s a lot of traffic to Centennial High School along Cloverdale as well as coming up Goldenrod. At the other end of Goldenrod is the pioneer elementary school and there’s foot traffic access directly into the back of the school from the west end of Goldenrod. We would very much be concerned with a higher density development there. We would like to see it remain as low as possible.

Commissioner Brunelle – Within your subdivision, I was curious about the houses on Scottfield Street that back up to this property.

Mr. Hilton – We have a resident that lives on Scottfield Street that is going to testify and he has that information.

Commissioner Brunelle – I’m trying to get a feel for the number of lots of whether they are single story.

Mr. Hilton – Most of them are 2-story.
Troy Clovis (4154 N. Muldoon Way/Boise/83713) – There are several homes along that area that have 148 to 140 ft. back yards and they are only proposing 66 ft. If you go down Scottfield, not directly behind the proposed subdivision, but if it continues on in future developments at the same zoning, which I would foresee that it would, then you are putting three+ homes behind a single home in the Traditions which I think is a little much. I’d also suggest that we look at zoning this R-1B. You actually have to go more than a mile south before you come to anything other than R-1B or A-1 zoning. It’s a little disingenuous for them to list on their rezone application that both north and south have the R-1C zoning because that is incorrect. None of the adjacent properties are R-1C. I would hate to see people nearby forced to change because of other things happening. The students at Pioneer and Centennial and Lowell Scott are in a no bus zone within a mile of the schools so they all walk to school. There is no bus service. Many of them walk down Goldenrod and Edelweiss to get to school. The kids have no bus service and very few options to get there. The newest subdivision that just went in to the west of the 5-acre lot is actually in an R-1C zone, but they put larger lots along Edelweiss that would be consistent with an R-1B even thought they were in the R-1C zone. They put in the larger lots because they knew the streets just don’t support that traffic.

Kelly Rowlands (12564 W. Goldenrod/Boise/83713) – I faxed over a summary of my testimony. We moved in ‘99’ from Phillippi Street up on the Bench by Orchard and we particularly looked for houses that did not have high traffic. This is a dead-end street onto the back of Pioneer Elementary School and the park, plus one that also had a higher quality of life with the larger lots and was very pro-family. We’d also done the research thinking that you couldn’t subdivide any of the lots any more. We have a 3 and a 5-year old and they are going to be going to school and they are going to be walking on the street. There’s no sidewalks on the street. We would prefer to have the larger lots, where you are not going to have rental properties, you’re going to have nicer homes stuck on it which would keep with the feel of everything else on the street that’s already existing. We would prefer not to have to worry about the traffic.

Rick LeGall (12530 Goldenrod/Boise/83713) – I also sent in a fax. The concern I have is the zoning that’s requested would allow 8 an acre, is that correct? That means the … next to this proposed building is already suggesting that they are going to develop that land also and in the future whenever those 5 acres become available it’s going to be the same game. This whole … has been there for 35 years. I’ve been there for 33. I think it would be nice if we could retain it. I know everyone else is agreeing to the 4 to an acre or something like that. I would like it to look more like 1 acre on that 4 acres, 1 to an acre or with Ginger Creek which allows 2 to an acre or 1 to an acre. The biggest problem is the road. It is 22 ft. wide in front of my house. The kids do go back and forth. That’s going to have an impact on what happens. It’s going to endanger those kids and including the high schools and all that, they do have a tendency to act like the elementary sometimes. We did put speed bumps in the neighborhood. To retain the quality of life that we have and to start … and putting in 8 to an acre or 4, 5, 6, 7, 8 to an acre is going to impose on the quality that we have. I don’t think it’s going to have a big impact on the Comprehensive Plan because I don’t think it needs to have an infill position. If we put one on an acre there it’s compatible with what is already there. Nobody intends to sell those other 5 acres
to my knowledge right now so it’s going to have an impact on everyone who’s lived there over 20 years or more. The main thing is, the way I read your report is that what they submit is not necessarily what they are going to do. So that tells me that the next person is going to do the same thing and can change it and we’re going to have to fight all the time. I’m going to die there. I’m not moving and I don’t want to see 8 to an acre. I don’t want to see someone buy an acre and decide they are going to put 8 to an acre because once you open the door the precedent is set. To my knowledge there are two precedents that have already been set. One is Skyview and other one is Sycamore Subdivisions that have been able to retain their original plat. I would like for Cloverdale Estates to remain what it was in the beginning because that’s why people go there. With the 1 acre there’s room for 4H which we’ve had on the block. I don’t think we have to send everyone from Boise City to go to Star so they can enjoy some bit of back yard. Not everyone wants to be able to pass the sugar to their neighbor next door out of a window. I don’t think there is any trouble with selling 1-acre lots. It would be conducive to put 1-acre lots there and it would fit in with what’s already there. It’s only 4’10”s of a mile. It’s not going to have a big impact on anybody. But once we start this infill, it’s going to be a problem from now until I die anyway. The 1B sounds nice but it’s still too many homes. The traffic is your biggest problem. It’s not going to get any better. I don’t like this open ended.

Commissioner Ellsworth – Would staff review the difference between R-1C and R-1B as far as what would be allowed on this property, the density?

Mr. Spjute – The R-1C maximum density is a little over 8 units per acre. The R-1B is about 4.8. However anything other than a single family residential subdivision requires additional zoning entitlements which would be brought back before you. In order to put a single family residential subdivision with the streets and the stub streets that would it would require, it would be very difficult to get anything more than 4 or 4.5 units per acre even in an R-1C zone.

Commissioner Ellsworth – But you could do that with an R-1B too.

Commissioner Wilson – There was a plat submitted with this rezone but it’s not binding in any way. It’s just an indication of what they might do with the property and then any other approvals would have to come through in a separate process so we don’t have a development agreement.

Mr. Spjute – That’s correct. We do stand by our recommendation for R-1C zoning. The intent is to put in single family residential against single family residential. We feel the zoning is appropriate. It complies with the Comprehensive Plan. I fail to see where smaller, single family lots are not compatible with larger single family lots. We’ve heard a lot about traffic. The traffic on Goldenrod, the last count by ACHD who did a cursory review of this project, showed 349 vehicle trips per day which is roughly 16% of what it would be before it starts approaching the levels that are still acceptable on a local road. Regarding the substandard width of the street and the lack of sidewalks, the only way that we get streets improved is with development.
COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-27 WITH R-1B ZONING AND A MODIFICATION TO THE STAFF’S RECOMMENDATION THAT WOULD PUT THE LOT SIZES ON THE SOUTHERN PROPERTY LINE TO MATCH UP WITH THE ADJACENT DEVELOPMENT.

COMMISSIONER BRUNELLE SECONDED THE MOTION.

Commissioner Van Ocker – Although I do agree with staff’s opinion that single family residential neighborhoods are appropriate and compatible with other single family developments, I do think that we are kind of getting pushed into a little bit too much on this particular parcel. My concerns are more with the adjacent parcels that have yet to be developed. I think that the development to the south, the R-1B development, seems to be appropriate and well done. By putting some limitations on this rezone that would help to insure that this property would be developed in a similar fashion and still allow the owner of the property to meet the economical goal of developing this, I think we are making a decent compromise here that everyone can live with.

Commissioner Ellsworth – I concur. While I am normally a big fan of infill and density because of the problem that we have with sprawl and people wanting to move here, I believe that we also need a diversity of housing stock within our city limits and the R-1B zone fits in better with the existing neighborhood. I do think that a house with a larger lot does add to our housing stock somewhat. We don’t have a lot of that here within our city limits and this is one area that maybe this works well.

Commissioner Wilson – One of the things that struck me about this application is that I would be more comfortable going with an R-1C if this came in with a development agreement showing exactly what was going to happen, how the lots would backup to other lots so that the neighbors could have a little bit more certainty in how it was going to be developed. I think I might be tempted to go to the higher density, but without that kind of assurance I agree with Commissioner Van Ocker that R-1B is more appropriate.

MOTION TO APPROVE REZONE WITH R-1B CARRIED UNANIMOUSLY.

CAR06-00028/Phantom Creek Subdivision
Location: 7400 & 7490 N. Gary Lane
ANNEX 3.84 ACRES WITH A ZONING DESIGNATION OF R-1C.

SUB06-00042/Phantom Creek Subdivision
Location: On the east side of Gary Lane north of Gillis and south of Hill Road
23-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Scott Spjute presented the staff report with a recommendation of approval.
Julie Parker (Applicant’s Engineer/P.O. Box 95/Nampa, ID./83653) – Concurred with the staff report. We’re looking at fostering a neighborhood lifestyle with first time buyers or empty nesters that list to be close to shopping and recreation. This is close to bus lines and neighborhood shopping. We’re hoping that we won’t increase the traffic greatly.

COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-28 AS RECOMMENDED BY STAFF WITH THE R-1C ZONE.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – I don’t have the same concerns with this annexation as I did with the last one. These parcels appear as though they are going to range in size which will create an interesting subdivision. They’ve made the necessary connections to other adjacent parcels.

Commissioner Brunelle – We have a subdivision application that does accompany this annexation that does show what the parcel layout is. All the adjoining properties, we don’t have the same situation as the previous item on the agenda where we has fully developed properties that backup immediately to the property in question. There is R-1C zoning directly across the street so I think there are elements in play here that make this an appropriate zone.

MOTION TO APPROVE THE ANNEXATION CARRIED UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB06-42 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL.

COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00052/Young American Early Care & Education Center
Location: 4037 N. Eagle Road
CONSTRUCT A 5,199 SQ. FT. BUILDING FOR A LARGE CHILD CARE CENTER FOR UP TO 108 CHILDREN IN AN L-OD ZONE.

Commissioner Wilson – The Commission has received an e-mail from Todd Amyx who is opposed to the proposal.

Carl Miller presented the staff report with a recommendation of approval.

Jennifer Coleman (Applicant/2559 W. San Remo Ct./Boise) – The parcel’s zoning light office and the City of Boise has accepted a child center as an approved use in this zoning. Children at the center will range in age between 1 to 12 years. Feels this is a compatible business to other uses in the general neighborhood. Surrounding businesses support the application. The property to the south has a single family residence located in a neighborhood office zoning. Additional
setback has been provided from the parking lot to the residence. Existing mature trees and landscaping will provide a sight and noise buffer. Playground will have a 6 ft. solid privacy fence and will have a maximum of 21 children on it at one time. Daycare provides a necessary service in a convenient location.

Mike Shosted (5041 W. Aberdeen/Meridian/83642) – Has office space adjacent to subject site. Feels this facility would be in the wrong place as it would be less than 100 ft. away from the busiest road in the state.

Sharon Walker (3965 N. Eagle Rd./Boise/83713) – Has concerns over safety, traffic and noise. Not opposed to growth. Was promised by developer that subject property would be limited office or light commercial. A large day care facility is not light or limited. Feels if this is approved, they were deceived. Eagle Road is a safety hazard.

COMMISSIONER BRUNELLE – MOVED TO APPROVE CUP06-00052.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Brunelle – I’m basing my motion on the staff’s findings of fact and conclusions. I did have some misgivings when I did see the original report and think of Eagle Road as being a heck of a location for a day care. I’ve not dealt with a lot of these in the time I have been on the Commission, but the ones we have dealt with have mainly been in neighborhoods. I that that applicant’s rebuttal pointed out that not just perimeter fencing on the play area but also of the business park is an extra measure of safety. We probably could find a better location but given the existing ordinance they are allowed here and what we heard here to night indicates that there are measures in place that would address those safety concerns.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CUP06-00053/Robert Truax/Truax Company
Location: 2805 N. 36th Street
CONSTRUCT AN INFILL PUD CONSISTING OF 1 EXISTING AND 7 NEW SINGLE FAMILY RESIDENTIAL HOUSES ON 1.2 ACRES IN AN R-1C ZONE WITH A VARIANCE REQUEST TO THE SETBACKS.

Angela Wood presented the staff report with a recommendation of approval.

Jimmy O’Connor (Applicant’s Architect/270 N. 27th St./Boise/83702) – Requested variances on the front yards as it will push the garages back and brings the porches forward giving a nicer streetscape. Proposed density is lower than allowed under the zone. Well designed, moderately houses will be provided in an area close to existing schools, shopping and businesses. Visual impact from 36th Street will not change. 5 ft. setbacks are required but the proposal will have setbacks at about 7 ft. Requested approval.
Commissioner Wilson – Received for the record a list of issues with signatures.

Scott Gray (2804 Woody/Boise/83703) – Area residents are against the development of these many homes on this size of a lot. Surrounding homes have over $\frac{1}{5}$th of an acre in size up to $\frac{1}{3}$rd of an acre. Proposal is incompatible with the surrounding homes. Concerned over traffic that will be generated by the new homes. Subject homes will be on substandard lots, less than 5,000 sq. ft. and not conducive to the neighborhood which has large back yards. Feels existing residents should be given consideration and city shouldn’t look at this from just a money and density aspect. Feels the proposed barbeque amenity is not enough for the amount of people that will be living there. Open space should be provided.

John Anzuanini (2821 N. 36th St./Boise/83703) – 36th Street is busy now. Against allowing these to be abutted right up to 36th plus having 70 vehicles in an area that used to have just 2 houses. Doesn’t feel new roads and lights going into the back yards are compatible.

Carl Morris (3100 N. 36th St./Boise/83703) – Area enjoys a quiet lifestyle with large lots. Concerned that mature trees on the property will be destroyed. Feels 4 houses is more than enough for the property. Traffic is a concern. Feels project will disrupt neighbors’ quality of life and decrease property values. Proposed home on the south center of the property conflicts with Lateral 34. A house will be right in the middle of the ditch. Objects to proposal.

Beth Greycloud (2908 Woody Dr./Boise/83703) – Neighborhood consists of larger lots at least 50 ft. wide. Comp Plan encourages preservation of neighborhoods, privacy and quality of life. Proposal does not adhere to those. There will be no privacy with only at 15 ft. easement and 2-story homes. Heavy traffic already exists on 36th Street. Getting an additional 70 cars from this development onto 36th Street will be impossible without an additional stop light. Request denial.

Jake Jensen (Works at 2819 N. 36th/Boise) – Clarified location of ditch. Opposed because of his business and sees problem with traffic and density.

COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF CUP06-53 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL AND FINDINGS OF FACT AND THE NOTED CORRECTIONS THAT STAFF MADE.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Van Ocker – I’m a big advocate of infill, especially in this part of our community. I think that this applicant has done a pretty fantastic job of developing some single family residences on a pretty small piece of ground that’s going to fit in this part of our town. The only thing I’m a little uncomfortable with and happens quite a lot with infill development is tearing down existing old growth trees. It’s a very unfortunate process that ends up happening with a lot of our infill projects. I would challenge the developer that if there is any that some of those trees can remain, I think that would be an even better solution. I think the architecture on these units
is great. I would like to live in one. I think they are going to be very attractive. One of the things we strive for with infill is to get the architecture up to a level that everyone’s going to feel comfortable with. The only thing I’d like to suggest is not having fences between the property lines. It will help things open up and integrate landscaping.

Commissioner Ellsworth – I agree. This is lower than the allowed density. I do believe that just even in this little subdivision that they are doing there’s a variety of housing stock. There’s some smaller units, they’ve saved an old house that’s got some unique features and hopefully with saving the house they will save some of the trees. I do think that the variances they’ve asked for enhance the architectural elements of the project. I do believe the single family house fits in and is compatible with the existing neighborhood.

Commissioner McLean – I will support this. One of the things that is important is access to transportation and this is being build in a place where people have ready access to transportation. I think that the stub streets being designed as part of this is very important recognizing that there could be more connectivity as things redevelop to the south.

MOTION FOR APPROVAL CARRIED WITH COMMISSIONER BRUNELLE VOTING AGAINST.

Planning & Zoning Commission Minutes of June 5, 2006 – COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

________________________________
Brandy Wilson, Chairman
Planning & Zoning Commission

Date: ____________________________
Deferrals

CUP06-00058/K&T, Inc, & Mike Taylor – COMMISSIONER COOPER MOVED TO DEFER TO AUGUST 14, 2006. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00055/Shiloh Development – COMMISSIONER COOPER MOVED TO DEFER TO AUGUST 7, 2006. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP05-00092 (Mod #2)/Jayo Construction – COMMISSIONER COOPER MOVED TO DEFER TO AUGUST 7, 2006. COMMISSIONER ORMAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00057/Boise River Investments
Location: 922 & 1014 E. Wright Street
CONSTRUCT AN INFILL PUD OF 23 RESIDENTIAL UNITS ON 3 ACRES LOCATED IN AN R-1C ZONE WITH REDUCED LOT SIZES, LOT WIDTHS, ZERO LOT LINES AND VARIANCES TO THE SETBACKS.

SUB06-00045/Trailwind Subdivision
Location: On the north side of Wright St. east of Apple.
28-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.
SUB06-00043/Rumsey Condominiums
Location: On the west side of Cole Road off Florence
48-LOT MULTI-FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00051/Birmingham Place Subdivision
Location: On the northwest corner of Targee & Orchard
17-LOT RESIDENTIAL TOWNHOUSE SUBDIVISION.

SUB06-00046/Air Flow Condominiums
Location: On the north side of Fairview Ave. west of Cloverdale
1 LOT (8 UNITS) COMMERCIAL CONDOMINIUM SUBDIVISION.

SUB06-00047/Tomlinson Condominiums (Phases 5, 6 & 7)
Location: On the south side of Gekeler northeast of Federal Way
100-UNIT CONDOMINIUM SUBDIVISION.

SUB06-00048/Pronghorn Place Condominiums
Location: On the east side of Hervey south of Targee
1-LOT (4 UNITS) CONDOMINIUM SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00029/DA/Jacqueline & Duston Rose
Location: 8770 W. Overland Road
REZONE .66 ACRES FROM R-1C TO C-1D/DA (DEVELOPMENT AGREEMENT).

Bruce Eggleston presented the staff report with a recommendation of denial.

Commissioner Fadness – The Commission has received for the record an e-mail from Betty Bermensolo and a memorandum from Pamela Williams.

Duston Rose (Applicant/6954 W. Hollyland Dr./Boise/83709) – I used the development agreement that was supplied by your staff and then I went through and I deleted all of the items
that you had objections to. For instance, on the last page you indicate uses not allowed in C-1 and I would direct your attention to that; include a service station, a minor auto repair shop, convenience store with gasoline services, indoor shooting range, retail store, all of those were deleted from the actual agreement that I submitted. If you look on the agreement itself which outlines all of the items that would be allowed, only ones with ‘A’ are the ones we’ve applied for which I thought the ‘A’ meant that would be an okay use. The other items that were like ‘CC’ or prohibited meant you couldn’t do it or if it wasn’t on there at all then it wasn’t supposed to be there. If you look closely on the actual agreement, Exhibit B, you’ll notice that the items you are concerned about were listed as prohibited. I don’t disagree with the staff’s concern about wanting to sculpt an agreement. I thought I had done that. We would be glad to work with the staff and try and work this out so that we can go forward with our project.

Commissioner Fadness – The applicant has stated a willingness to look at a more specific development agreement. I’m wondering if that’s the situation; whether we should defer this to allow time for a more specific development agreement rather than have the applicant go forward with a presentation that may not be applicable to tonight.

Mary Watson (Legal) – It’s really the applicant’s request to the Commission on a matter of deferral. You could suggest it. Legal has not had the opportunity to review the development agreement because staff did not supply the Legal Department with the development agreement prior to today. We don’t feel comfortable with the development agreement as it’s written at this point, but it’s absolutely your decision on how you want to handle it.

Mr. Eggleston – It’s at the P&Z Commission’s discretion to make that motion for deferral if they like.

Commissioner Fadness – I’m wondering how useful it would be to have the applicant go through his whole presentation and then perhaps it be denied because we want a more specific development agreement.

Mr. Rose – Obviously we don’t want to have our application denied. We’ve spent a lot of time and money to get it prepared. We want to do it in a way that’s acceptable to the neighborhood and to the Commission and the City of Boise. We would be glad to go back and relook it and come back to you with a more specific agreement. I think with a careful reading of this agreement you will note that the items of concern were listed as prohibited or not even there. It was a little rushed in getting it in.

Commissioner Fadness – Is your preference then is that we defer until you can come back with a more specific development agreement?

Mr. Rose – Yes sir.
Commissioner Brunelle – I would ask that if we go ahead with a deferral, then I’m assuming we’re not going to accept testimony from neighbors and others who have come tonight.

Commissioner Fadness – We would not, but I would certainly be willing, if there are members of the public who would not be able to return to a meeting on the 7th or 14th of August, if for some reason someone can’t return to either of those meetings, we would accept testimony tonight.

Ms. Watson – It’s important to notify the public that anyone who testifies tonight will not have an opportunity to do so again on August 14th. They only get one 3-minute opportunity.

Cindy Ryckman (1308 Chase St./Boise/83709) – I did meet with the applicant at the neighborhood meeting. I thought it was a great idea and we were pleased that they didn’t want to knock down the whole building and replace everything, but I did voice my objections at that time of zoning it to a commercial zoning because if the business does go under and does fail then it does open us up to a lot of other types of businesses that wouldn’t be compatible with our neighborhood. If there were some way, some special circumstance or something that would allow them to have the floral shop in there and have it revert back to the R-1 zoning or an L-O zoning if that were to fail, I would be perfectly happy with that. I would favor something that specific. Once the commercial zoning is in place it would be hard to keep undesirable businesses out.

COMMISSIONER RUSSELL MOVED TO DEFER CAR05-20/DA TO THE PUBLIC HEARING OF AUGUST 14TH AND HAVE THE APPLICANT WORK OUT THE DEVELOPMENT AGREEMENT WITH STAFF AND BRING IT BACK AT THAT TIME.

COMMISSIONER MCLEAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of June 12, 2006 – COMMISSIONER ORMAN MOVED FOR APPROVAL. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ______________________________
Planning & Zoning Commission

Hearing Minutes of
August 7, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Brian Ellsworth & Amber Van Ocker.

Staff Members Present
Andrea Tuning Carl Miller, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CUP06-00049/Idaho Fish & Game – COMMISSIONER WILSON MOVED TO DEFER TO SEPTEMBER 18, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP05-00092/Mod #2/Jayo Construction
Location: 3417 W. Americana Terrace
MODIFICATION TO INCREASE THE DENSITY FROM 85 TO 105 UNITS AND CHANGE THE PHASING PLAN FOR A PUD IN A C-3D ZONE.

CHF06-00030/Jayo Construction
Location: 3417 W. Americana Terrace
REQUEST A RIVER SYSTEM PERMIT MODIFICATION TO INCREASE THE DENSITY FROM 85 TO 105 UNITS FOR A PUD IN A C-3D ZONE.

CUP06-00062/Brian Sopatyk
Location: 1014 S. Longmont Ave.
PLACE 2 MANUFACTURED HOMES ON 1 LOT IN AN R-3D ZONE.

SUB06-00053/Surf City Subdivision
Location: On N. 39th St. north of Taft St.
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.
SUB06-00058/Trailside Subdivision #2
Location: On the north side of Amity east of Trailside Subdivision #1
77-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00054/Rincover Subdivision
Location: On the southwest corner of 30th and Gavin streets
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER WILSON MOVED TO APPROVE THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00031/David Marmillion
Location: 2109 S. Leadville & 801 W. Pennsylvania
REZONE .43 ACRES FROM R-1C TO R-1MD.

COMMISSIONER VAN OCKER MOVED TO APPROVE CAR06-31 WITH STAFF’S RECOMMENDED FINDINGS OF FACT.

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Van Ocker – Staff’s interpretation and request for rezone on this is consistent and compatible with the existing zoning districts that are adjacent to this parcel.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

CAR06-00034/Micron Technology, Inc.
Location: 10136 S. Federal Way
ANNEX 48 ACRES WITH A ZONING DESIGNATION OF T-2D.

COMMISSIONER COOPER MOVED TO APPROVE CAR06-34 ALONG WITH STAFF’S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Cooper – This is an appropriate use adjacent to an identical use and has substantial separation from the nearest residential neighborhood.
MOTION TO APPROVE CARRIED UNANIMOUSLY.

CAR06-00033/Capitol City Development Corp.
AMEND SECTIONS 11-11-06 AND 11-11-08 OF THE BOISE CITY CODE REGARDING STANDARDS FOR PORTABLE SIGNS IN THE C-5 ZONING DISTRICT.

Andrea Tuning presented the staff report with a recommendation of approval and that the signs be no larger than 6 sq. ft. Read 3 letters of correspondence into the record: (1) an internal memo from Mike Garner/Code Enforcement; (2) letter from the Bardenay Restaurant in support of the amendment; and (3) a memo from Colliers International in opposition to the amendment.

Mike Hall (Applicant/805 W. Idaho/Ste. 403/Boise) – We started looking at this issue in 2003. We had discussed this with various departments of the City and also the Ada County Highway District and we held an open house in April in which 300 downtown businesses were invited. We had a few people attend that and we received some comments, all which were positive. One person mentioned that they didn’t particularly like the look of the signs. I’d like to address the conditions under which this code amendment is being proposed. One premise of this code amendment is that portable signs, A-frame and T-frame signs, they are not necessarily just going to go away. They’ve been prohibited for as long as I’ve been in Boise. I started working at the City in 1994 and they were prohibited then and they’ve been prohibited since. You’ll notice that you see a lot of these signs and they’ve become an acceptable part of downtown. My understanding is that even if they are continued to be prohibited, it’s not likely that prohibition will be enforced effectively. That’s not a criticism of anybody. It’s not a criticism of the City. It’s not a criticism of the Code Enforcement Staff. It’s very difficult to enforce sign standards when the sign standards are not seen as reasonable or fair by the people that have to live by them. It’s a big job to try to enforce that prohibition. What we’ve found and if we ever hear a complaint about portable signs, it’s not that they’re there, it’s that they are in the way. They are in the pedestrian zone of the sidewalk. One thing about downtown is that the sidewalks are a lot wider than they are outside of downtown. Generally they are at least 12 ft. wide curb to building. Within that area there is what we call a furnishing zone which is where the trees and the historic street lights are located and there’s a building frontage zone which is just adjacent to the building. The area between where the tree grade is and the building frontage zone is typically over 6 ft. wide. Quite often it’s about 8 ft. When you have a sidewalk that has not been improved you still have this width in a lot of cases and you have the area called the furnishing zone. The way that this code amendment works is that it would allow someone to place a sign (here) or (here). There are also standards in there that would require that the sign be placed so it is in compliance with the Americans with Disabilities Act. That was a key concern of ACHD and we have addressed that through this code amendment. From our perspective what the code amendment does is it allows the city to more affectively control where the signs are located, where they are placed on the sidewalk. We think this is vast improvement over what we have today. It’s a lot easier for a City Code Enforcement Officer and for all of us to tell a business owner to move their sign instead of telling them their sign has to go away or to confiscate their
sign. That’s really the premise behind this. One of the issues that staff mentioned was the size. The changes that staff has made and that they are recommending, they’re logical, they’re well reasoned, they make a lot of sense. In some cases they are not as practical as we think they could be and that’s where that size comes in. We do not want the City to adopt a code that excludes a lot of businesses and renders their signage illegal. That gets us to the other issue and that is which businesses would qualify for the sign. Where the staff has landed on this we think is a pretty good compromise, however there are some businesses out there that are in basement locations. They even have their only entrance on the street in some cases. The way it’s proposed by staff is that those businesses would not be able to have a sign on the sidewalk. Another issue is where the sign can be located. We had originally proposed that you have one sign per entrance. Our thought was that there wouldn’t be two entrances on one frontage. If there is it’s going to be a very large business and the entrances are going to be so far away it’s not going to be a problem. I think where staff had an issue with this is that it’s hard to define what an entrance is. Sometimes you have two doors that are side-by-side. But I think if you allow a business to have one sign per frontage and maybe even limit it up to two frontages that might address some of the needs out there. CCDC has used these signs. A number of our garages have entrances on 2 streets. The entrances are hard to find because we don’t put a big sign on the sidewalk. We have done that but they are not very effective and they are pretty obtrusive. These small signs work effectively to provide driver direction.

Karren Sander (Downtown Boise Association/720 W. Idaho/Boise) – A-frame signs in the Downtown Boise urban core have been a long-term practice. I thank the Boise Staff for understanding that this is a part of the vitality of downtown and it really does help the businesses down here. Currently A-frame signs are used by the majority of the retail, restaurant and service locations in the downtown core. We really would like to accommodate up to 8 sq. ft. because many of the signs do fall within that size perimeter. In a highly competitive environment these signs are a vital tool to promote the businesses and products of our downtown businesses. According to the Small Business Administration, and understanding the value of signage, signage is a critical component of visibility and without properly designed and placed signage, a commercial site cannot function at its full economic potential. Signage develops a memory for a location and products or services. It reinforces a memory and extends recall of other advertising efforts. It attracts new customers by promoting first time or impulse visits. It modifies customer purchase decisions, for example many of our restaurants will do a special of the day. I would really like to promote that we do have A-frame signs in the C-5 district. It’s important to our businesses and if we can accommodate the size and our basement locations and some of the upper flow locations as well it will be highly helpful to many of these small businesses.

Commissioner Fadness – For the record we have received a letter from Andrae and Michelle Bopp.

Andrae Bopp (816 W. Bannock/Boise/83702/Chef & Owner of Andréa’s Restaurant) – I’m writing this letter to you as a business owner in downtown Boise who will be negatively impacted by your proposed change in the Sign Ordinance. In the August 5th addition of the
Idaho Statesman it was mentioned that businesses that are not at street level may not have any street signage. Since my business is the lower level of our building, this would have an extreme negative impact on our business. I feel that this would be discriminatory to businesses that are not at street level but still need some way to direct traffic to their place of business. If we did not have a sign on the sidewalk people walking by would have no idea that we have a business in the building that we are in. Our sign that we have does not advertise any specials or sales, just merely a directional sign with an arrow letting passersby know that they would need to go downstairs into our business. Our sign is professionally made of metal, very attractive and in no way detracts from the building nor is in any way causing pedestrian flow problems in front of our building. I would like to add that our sign falls somewhat within the guidelines of that 7 sq. ft. that they are talking about. What I would propose is that existing non-street level businesses be allowed to have signage that would fall within the guidelines adopted through a grandfather-type clause. Since this ordinance would be put in place after non-street level businesses have already purchased, leased or rented the space that they are in, I feel that this would be only fair and reasonable. I believe that this allowance would only affect very few businesses in downtown. The opposite side to this would be those businesses having to close their doors and leaving the downtown corridor that you are so desperately trying to promote.

Larry Allen (349 N. 30th St./Boise/83702) – I’m a project director for the American Red Cross of the Greater Idaho Chapter for disaster relief. We are on the 2nd floor above Café Ole. We have not had signs up as of yet but the biggest challenge we face is we are increasing our health and safety courses, a lot of disaster relief training and the CPR classes. People are having a heck of time finding us. The signs we would like to put up would be for the evenings when people are coming to the classes, directional signage. This would be very important to us because it’s a serious situation. We’ve had half of our classes not show up because they cannot find us. We’re very limited on what else we can do. We’ve already got one sign on the 8th Street side which is hard to see and is not lit and in the evening is pretty tough to see. This would be a huge help for us.

Larry Babich (General Manager of Mai Tai Restaurant/750 W. Idaho/Boise/83702) – We have noted that our A-frame does work for us. We often get comments from customers, especially out of town that will come walking into the restaurant and didn’t know we were there except for the sign that we placed outside. I’m very open minded as far as any kind of amendment to the size and placement. I did have a question on the proposed amendment and that is I think it noted that the signage has to be directly in front of the restaurant. Is that true?

Perry Allen (Owner of Basement Gallery/928 W. Main St./Boise/83703) – I concur with what everyone has said. I’ve been in my location for 10 years now. A sign is awesome. I’m in a basement also. It helps a great deal to have something at street level to help direct people. In my particular building which is the Idanha, there’s 4 other entities in there and we all have A-frame signs of some sort or freestanding or mobile. That’s 4 businesses and we’ve never had a problem with one another nor with our patrons nor with people trying to walk up and down the sidewalk.
It’s a shock to me that this even surfaced because I had no idea that it was prohibited and that they could be removed at any time.

Commissioner Fadness – So each of those 4 businesses has their own separate sign out?

Mr. Allen – Yes.

Commissioner Fadness – Are you okay with the 6 ft. size recommended by the City’s staff?

Mr. Allen – That’s pretty small when you are talking square footage. 8 ft. is probably a minimum and in our area alone I would say the majority are at least 8 sq. ft.

Commissioner Fadness – So your current signs are 8 ft. or larger?

Mr. Allen – Yes. Ours all vary a great deal. 10th Street probably has the largest one which was also up on the overhead. I believe Bombay may only be 2 or 3 sq. ft. but they also attach to it their menu items so it does expand and become a little larger sign when they attach those items.

Commissioner Fadness – Is 6 ft. something you could live with?

Mr. Allen – I’d work with most anything as long as it’s not prohibited completely or removed. I still say the ideal is at least a minimum of 8 sq. ft. Anything smaller than that, if you are trying to put text on it, it becomes harder and harder to read.

Valerie Hanson (404 S. 8th St./Boise/83702) – I am on the main level. I’ve had a sign out on the furnishing zone since we opened. We were asked by our property management company to remove our sign and I saw a dramatic difference in business. We do not get the foot traffic within the building on the main level that we had with our signs out there. We had one sign put together by another business that is in the basement level that listed more shops inside. That was removed. It is very important to each of us that we continue as small businesses. I think that the 6 sq. ft. is plenty. I just had my logo and an arrow directing people where to go because otherwise they wouldn’t normally see that there is a doorway. As business owners we really need these signs and I think if we can keep them within the furnishing zone, it allows enough space for wheelchairs by people walking their dogs.

Commissioner Fadness – Did your property manager cite as a reason to remove the sign was the violation of this ordinance, was that the reason?

Ms. Hanson – Yes. That is the reason they issued a letter on May 12, 2006 asking us to remove our signs. They gave us until May 19th at which time we pushed it. We all kind of left our signs out there hoping that maybe they forgot. As of June 1st they enforced it. We were forced to bring our signs in. All of the businesses that I’ve talked to, there is a hair salon, another gift shop, a studio, they’ve also had a decline in their business.
Commissioner Fadness – And you have reason to believe that that’s the only reason and if the ordinance were changed to allow the signs you’d be okay to put the signs back up.

Ms. Hanson – Yes. In speaking with people when they come in, I have to admit right now I’m not in compliance with the ordinance. I have my sign out there. In talking to people, we would have never know this cool shop was in here if we didn’t see your sign. They are very forward about this and you can ask the people that come in for a hair cut that are just walking in off the street. If the salon didn’t have their sign out there they wouldn’t have known they were there.

Commissioner Wilson – Mr. Babich had asked whether or not the ordinance requires that the sign be directly in front of the business. I’m just wondering if the answer is yes or no.

Mr. Babich – I tried to place the sign where there is the most traffic. Our frontage is basically the destination for the buses downtown. I haven’t had much luck with the signs right directly in front of the building so I’ve been placing it down at the corner of 8th and Idaho streets and have had better luck there. There’s more traffic at the intersection.

Ms. Tuning – The Sign Ordinance, as it has been proposed by staff to the Commission, does require that the sign be placed directly in front of the building of where the business is located. All signs on corners would be prohibited because those would be specifically located within the vision triangle and all signage has been virtually eliminated through the proposed Zoning Ordinance amendment that we have before you tonight.

Commissioner Fadness – This is something that hasn’t been enforced until just recently and I’m not sure what the reason for that is. Now that there are proposed changes to the ordinance, including the size of the sign and where the sign can be placed, can we anticipate with confidence that this will be enforced?

Ms. Tuning – I’m unable to answer that question. We are forced to rely on our overworked and understaffed Code Enforcement Staff. Often times they don’t enforce items unless it is a specific call-in complaint basis. Once a call is received they will go out and investigate and issue a case study and we’ll have a resolution based on that. Without those complaints or call-ins we just don’t have Code Enforcement Officers that go out. Much of the time they are forced to walk down the road with blinders on not enforcing all of the codes that the City currently has.

Commissioner Wilson – Were there any other alternatives that were considered besides just the temporary A-frame signs, for example maybe placing permanent frames in the furnishing zone that could be leased out to certain businesses or perhaps amending the Sign Ordinance in the C-5 district to allow signs that jet out from the building a little bit so for example for those who have basement locations or locations that are interior with other businesses there would be at least something sticking out from the building advertising the other business. Were there any other
alternatives that you looked at besides just replacing one problem with another for Code Enforcement?

Ms. Tuning – We did take a look at a fast majority of signs. Our current Sign Ordinance does allow wall and building mounted signs. So those are all allowable under certain conditions under the current ordinance. We did take a look at the size. We looked at height. We looked at a number of different things and we actually implemented an option that if there are a number of businesses or even perhaps there’s one business but there’s several basement businesses or upstairs businesses that are interested in on-street signage, we’ve given them the option that in lieu of every frontage business having a sign, that we could put up one sign which would be limited to 6 sq. ft. and the materials that are required by the Zoning Ordinance. But in lieu of all those multiple signs they could have a directory signage that could identify the business, provide an error, those types of things. There are some options for those businesses that are located in the basement or on upper stories.

Commissioner Cooper – In our packet some of the most detailed information was actually from Code Enforcement Staff. We didn’t hear from them tonight and I see Mike Meloy sitting here. Would he be interested in telling us anything?

Mr. Meloy – Indicated he just came to the meeting to listen.

Commissioner Fadness – How did staff arrive at 6 ft.? It seems it comes just under what some people think is more acceptable of 8 ft. Is staff pretty firm about that?

Ms. Tuning – Mike Hall from CCDC and I took about a 2-hour jaunt through the downtown area. We literally took our tape measure and measured various signs that we came across. We looked at some of the more visually appealing signs that didn’t have a lot of text and what was adequate. When you really look at pictures and when a pictures of when a person stands next to them, an 8 sq. ft. sign is very, very, very large. Originally CCDC had proposed 10 sq. ft. I asked them to look at something more along the lines of 6 sq. ft. They agreed to compromise at 8 sq. ft. I really do, based on the pictures, believe that 6 sq. ft. is adequate. We don’t want to end up with clutter. We don’t want something that’s going to be within the vision triangle. We don’t want something that’s going to impede any type of visibility issues. The signs are not intended for vehicular traffic. They really are for a pedestrian purpose and they are located within a pedestrian zone. With the 6 sq. ft. we really believe that should be an adequate size.

Commissioner Ellsworth – Could staff comment on the businesses that are on the street level versus the businesses that are in the basement or above the first level? It seems a bit discriminatory to me and some of those basement ones might actually need the sign more than the street-level one. What are the City’s thoughts on that? It seems to me this could get completely out of hand if every business in downtown throws out a 6 sq. ft. A-frame sign. That would be clutter. I saw Collier’s letter and I agree with that. There is a fine line here and I was just wondering if staff could comment on that.
Ms. Tuning – There really is a fine line. Mike Hall and I really sat down and had our discussion. We talked about a lot of these issues on our walk throughout the downtown area. To eliminate the clutter, we really did look at how we can do that. How can we maintain the viability of the businesses downtown. One of the ideas that arose from our discussion was typically users that have a window frontage and that are on ground floor levels, they pay much higher lease rates. When they negotiate those leases people that are either in the basement or they are internal, their lease rate reflects that and they know that they know that they are not going to have the visibility that a window street frontage would. We really had to look at that but we did not want to discriminate against anyone and that’s why we did implement in lieu of having multiple signs that we could have the directory sign. So that option was still available to those individuals if signage did need to occur, then that was an option that they could take.

Commissioner Ellsworth – So that would be in the form of an A-frame directory sign that might include one tenant in the basement and one tenant above or multiple tenants.

Ms. Tuning – Or however that civil agreement came about, yes.

Commissioner Ellsworth – That would go through the landlord? How would that work?

Ms. Tuning – It would be processed specifically as a sign application to us so we would certainly go out and inspect, take a look at if there are other signs or if we have issued signs for this building in other areas. If not, then we would probably need to contact those individuals within that and tell them we had an application for a directory sign. An important fact to know is that all signs require the written review and approval of the City of Boise, CCDC as well as the Ada County Highway District to insure compliance.

Commissioner Ellsworth – Even the A-frame signs?

Ms. Tuning – Correct. Every sign within the C-5 zone that’s proposed with the Zoning Ordinance amendment would require the written approval of those 3 entities.

Commissioner Ellsworth – So the directory sign could be an A-frame sign sitting on the street right next to another sign that’s an A-frame sign.

Ms. Tuning – If it’s a different building it certainly could.

Mr. Hall – One thing that I did not mention for the record is this part of the proposed ordinance that requires written approval from ACHD. One thing that we see that is a more practical approach to doing this is ACHD granting some type of agreement so they would not have to individually approve each sign. We are discussing that with the ACHD Staff and hopefully we’ll have some more information on that by the time this goes to the City Council. The State law requires ACHD to approve anything in their right-of-way so that will be addressed one way or
another. About the Colliers letter that you received, they are the property manager of Bodo in the 8th Street Marketplace. They try to manage that somewhat like a shopping mall. That’s a good thing in a lot of ways. It doesn’t work entirely like a shopping mall because the streets are public. In a shopping mall the travel ways are private. There’s some difficulty there. Obviously there are some tenants of Bodo that want to be able to use A-frame signs.

Commissioner Fadness – We did receive a letter from Rachel Vanderland of Colliers who is in opposition to the ordinance and Kevin Settles who is in favor of the ordinance.

Karren Sanders – Staff had mentioned that this is signage that is not for vehicular traffic to see. As we become a more pedestrian environment downtown this is absolutely for a pedestrian environment. The current signage on many of the sides of these buildings is either blocked by trees and/or the signs are horizontal so you cannot see any of the signage alongside a street face. These A-frame signs are critical for way finding and directional signage even more so than just naming the business. We recommend that the 8 sq. ft. be accommodated or looked into because there are some since quality signs that are a little larger than the 6 sq. ft. example and I would hate to think of the expense of a small business to have to recreate a quality sign again. I think it would be worth looking into for some of these signs that are already in existence that exceed the 6 sq. ft. that staff is recommending.

COMMISSIONER ELLSWORTH MOVED TO APPROVE CAR06-33.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Ellsworth – I’m not sure it’s perfect or entirely enforceable but I’m willing to go ahead and give it try. I guess we can see how it works. I’m a little worried we’ll end up with a lot of signs down there, a lot of clutter. I was thinking about the idea of maybe raising the 6 sq. ft. to 7 sq. ft. as a compromise and I’m willing to hear other commissioners’ point of view on that as well since we did hear from the public that maybe 6 is too small. I was also considering adopting some language that allowed anybody to put a sign out there, but I think after the explanation, I’m willing to leave the language alone on that one.

Commissioner Van Ocker – I’m wondering if the maker of the motion is considering the revised modified version that staff has presented?

Mr. Ellsworth – Correct.

Commissioner Van Ocker – This is a tough one. I think we have to be really careful about how we are going to adopt this because I think the businesses we are talking about, with the exception of the Red Cross, the businesses we are dealing with for the most part restaurants, bars, gift shops, service oriented type uses, I think when you consider those it can be very difficult for them to run their business without the use of these signs. Now the 2nd, 3rd floor story office buildings I don’t have as much of a concern about because people visiting those uses, it’s a
destination point. They already know where they are going. I’m a little uncomfortable saying it’s anybody’s game because I think we could get into a mess where all of a sudden everybody thinks it’s fun to throw a sign out on the sidewalk. Maybe this will all work itself out and only the people that really need that advertisement do that. I’m also not comfortable in just sending a revision to our ordinance on to City Council that we haven’t really thought all the way through. I would really like to have some additional information on just the number of tenants that we have in certain buildings that would potentially be wanting to participate in this because I think that we are going to have certain buildings that are going to really want to participate. The 8th Street Marketplace is the perfect example. You’ve got half that facility below grade. A lot of people are going to want to throw signs out onto the street but then you’re going to have other buildings in our city that will have only a couple. I don’t know if it’s worthy of a little bit more investigation on some of these buildings that are really going to need this and how we place them in the streetscape or if we’re just micromanaging this too much and we just need to move on.

Commissioner Wilson – I’m also uncomfortable with what’s being proposed here and that’s one of the reasons I asked the question I did about what kinds of signs can they have now, did we consider alternatives where maybe we direct some sort of permanent frame in the furnishing area that then people could use by permit based on some system that we could come up with so we can control the number of signs. It just seems like what we are doing here is replacing one thing that we haven’t been able to enforce with something else that we can enforce. I just don’t think that’s a wise move on the city’s part. The way that this ordinance is written, for me it kind of conflicts with the spirit of our billboard ordinance. In the billboard ordinance in the city we’ve limited the number of billboards that we are going to have and anytime someone wants to place a new one they have to take another one down. But what we are doing with this sign ordinance we’re saying that if anyone wants to put a sign out on the sidewalk it’s okay. To me that just increases the clutter downtown and it’s going to be more difficult to control and I just don’t feel like this is really a solution. I think this is just admitting we have a problem that we haven’t been able to solve. I won’t be supporting the motion. I think we’re opening up a larger can worms then what we are taking care of.

Commissioner Cooper – I disagree with the statement that this is similar to billboards which are permanent structures and are quite large. I live and work in the downtown area. I’m on the streets all the time and frankly never noticed, until I got this package, that there was a problem with temporary signs. Now that I see that it brings up all these issues that are potential problems I must admit I’m really struggling with it. Since I’m on the street so much I know that the particular block that Andrea’s is on is for some reason is a block that you just don’t walk down very much. If his sign is taken away I think it’s a problem, but yet I can imagine that a larger building that has many tenants will suddenly have 10 or 12 signs out front and be legal and I also think that’s a problem. I think there are some good things here. Allowing the A-frame signs which are currently not allowed, I allowed that the signs should be in front of the business that they are located in otherwise everybody would be clustered right on the corner where it would be the most dangerous. I think I agree with Commissioner Wilson that I think this hasn’t been thought about enough. I think there’s some holes in it that need to be considered more carefully.
Commissioner Wilson – I think signage like the Andrea’s sign that’s permanent, that’s metal, that’s directional is really helpful and is a really good thing. I’m just really concerned about cluttering it up the A-frame signs. Everybody says they will keep it where it’s supposed to be, but things being as they are I know they will move around a lot. I kind of see a distinction between just temporary signs that are moved in and out all the time and something that’s a little more substantial.

Commissioner Fadness – I would caution the Commissioners on maybe seeing goblins here where none exist. I don’t see with the passage of this ordinance every business rushing out to put out an A-frame sign. Most of them that do put them up didn’t know they were illegal and so other businesses who may want to have put them up would not have realized they were illegal. I find it hard to believe there’s going to be this mad rush of businesses putting out signs on the sidewalk. I would also note that the ordinance specifies where they can go so that they are not in the pedestrian walkway, that they are in a certain place either right in front of the door where the planters are. I find that the signs that I’ve seen are attractive and helpful. I do stop when I see that there’s a different daily special. I think it encourages business too. I find it hard to believe that overnight there will be this tremendous clutter of signs and from what I’ve been able to see, the business community has been very responsible about the quality of the signs and not being in the way of pedestrians.

Commissioner Cooper – There probably isn’t much likelihood that there will suddenly be a huge infestation of signs because of this. The upstairs tenants in most buildings tend to off office type businesses which wouldn’t have signs like this. Usually the ones that need that ground floor frontage are the ones that are going to want signs. There are several restaurants that are in basement locations that need some kind of identification.

Commissioner Wilson – I agree with that. That’s what makes it difficult because I just keep coming back to the point that I just don’t think that this has been really thought through. I think we need more because there are still some problems here.

MOTION TO APPROVE THE ORDINANCE WITH A CHANGE TO ALLOW 6 SQ. FT. CARRIED WITH COMMISSIONERS WILSON AND VAN OCKER VOTED AGAINST. COMMISSIONER FADNESS BROKE THE TIE VOTING IN FAVOR OF THE MOTION.

CUP06-00055/Shiloh Development
Location: 2718 S. Holden Lane
CONSTRUCT A PUD CONSISTING OF 17 SINGLE FAMILY RESIDENTIAL UNITS ON 2.469 ACRES IN AN R-1C ZONE.

Carl Miller presented the staff report with a recommendation of approval.
James Glancy (Applicant’s Architect/595 Americana Blvd./Boise/83702) – Did not agree with staff’s recommendation of 15 units instead of 17. Had several meetings at ACHD Commission and neighbors. ACHD has recommended there be no street improvements whatsoever. Worked hard to incorporate 17 units on the site which works out to be 6.8 units per acre. This is an infill development and 8 units would be allowed. Is not requesting an infill bonus. The site has several large trees and 70% of them will be saved. Will be relocating those around the perimeter of the property. Reducing the units by 2 would not have any visual impact. The units that staff recommended be removed are in the back portion. The reason staff gave for removing those was the parking. Proposed are 17 units with 2-car garages. The garages are a little bit bigger footprint and it’s felt they will be used. Behind the garages are 2 more spaces. That with the additional 8 spaces being provided on-site, there are 4.47 spaces per unit so the code requirements are exceeded. Can comply with 15 ft. setbacks on each and southern property line. Item D requires a 4 ft. attached sidewalk on the north side of the service drives. Currently there are 2 service drives, one on the south, and one on the north with sidewalks on one side. This is not an urban setting and doesn’t feel sidewalks should be provided on both sides of the street. The existing Holden Ln. has no sidewalks at all and providing sidewalks on both sides of service drives will not fit in with neighborhood. Will be providing a 4 ft. wide internal sidewalk throughout the site. Staff has asked for 7 ft. and would be almost a greenbelt width. With just 17 units it would not be necessary and would create more paved area. Would rather keep it green with the existing foliage. Staff is requesting a gazebo area. There will be a picnic area, private patios, court yards and a lot of trees will be saved. Will provide a fountain or some other amenity in the center. Request gazebo be deleted.

Commissioner Fadness – Read letters into the record that were included in the packets.

Vicki Horn (1301 E. Rayburn Ct./Boise) – Lives in house directly adjacent to property and was not invited or advised of any meetings. Found out from a neighbor about the townhouses. E-mailed developer with questions. Filed a formal complaint. This is a rural, low-income area. Against the special use permit as it will lose the environment-friendly aspect. Concerned over removal of trees and root systems causing damage to her trees. Development will encroach upon her privacy with 2-story buildings within 40 ft. to back door and will diminish surrounding property values.

Jim James (2607 Holden Ln./Boise/83706) – Has serious concerns about the density and the widening of Holden Ln. Support ACHD’s recommendation of no improvements on Holden Lane. Condition #5 requires a 6 ft. fence along the perimeter. Feels it would be inappropriate and cause a visual obstruction for the neighborhood and requests the area be left open and condition #5 be deleted. Supports the removal of the additional units. More parking spaces for guests should be provided.

Erin Davis (2619 Holden Ln./Boise/83702) – Agree with staff’s recommendations and the recommendation that Holden Lane not be widened or improved. Meandering sidewalk on the
side of the development is a good idea. Does not like the density. Should only be approved for 13 units.

Commissioner Van Ocker – Questioned if Ms. Horn was left off the radius notice list.

Mr. Miller – The notification list indicates she was sent a radius notice.

Dan Appel (Applicant/1317 W. River St./Boise) – Conducted two neighborhood meetings. Notice was sent up to everyone. Has corresponded by E-mail with Vicki Horn. Worked with the other neighbors and preserving the rural character and the trees in the neighborhood. Most of the units will be single level and it’s not high density. One-third of the buildings will have a 2-story element and will increase the value of adjacent properties. Will be no visual or traffic impact by allowing 17 units. Would be agreeable to 16 units is absolutely necessary to delete one.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-55 WITH CHANGES TO CONDITION #3B TO HAVE A 15 FT. SETBACK ON THE EAST SIDE, BUT AN 11 FT. SETBACK ON THE SOUTH PROPERTY LINE; CONDITION #3D, THE SIDEWALK IS TO BE PLACED ON THE NORTH SIDE OF THE SERVICE DRIVE, NOT BOTH THE NORTH AND SOUTH SIDE BECAUSE THAT SEEMS TO BE A POINT OF CONFUSION; CONDITION 4E ADD THE COMMON AREA COULD ALSO HAVE SOME OTHER SORT OF FUNCTION AS A GATHERING AREA AND DOES NOT NECESSARILY HAVE TO BE A GAZEBO.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Cooper – Would the maker of the motion condition REVISING 4B TO REDUCE THE INTERAL SIDEWALK FROM 7 TO 5 FT?

COMMISSIONER WILSON – I WILL CONCUR TO THAT.

Commissioner Ellsworth – If you’re going to remove unit #5 then you’re likely to get a 15 ft. setback on the southern property line, but if you’re going to keep unit #5, you need to make 11 ft. work.

COMMISSIONER WILSON – MY INTENT WAS TO REMOVE UNIT #5. WE DON’T NEED TO CHANGE THAT TO 11 FT. THEN.

COMMISSIONER FADNESS – DO YOU ADVOCATE REMOVING UNIT #14?

COMMISSIONER WILSON – YES. I still think an overall density of 15 is appropriate for this location. It seems staff has worked through quite a few issues with respect to the density and that is more appropriate than having 17 because of the parking issues.
Commissioner Cooper – Seems we are often talking to neighbors who are seeing larger developments happen in their neighborhood that is really okay. I think the applicant has done a very skillful job of fitting in this development on a very densely treed lot without losing any of the larger trees. I agree with every provision to the conditions that was in the motion.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

SUB06-00059/Rincover Subdivision
Location: On the south side of E. Boise Ave., across from Sunhollow Ave.
2-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Scott Spjute presented the staff report with a recommendation of approval. The applicant has contention with condition of approval #3. Accessory structures are not allowed on lots without a principle structure. Lot #1 contains 2 sheds, one of which is a 100 year-old historic structure that is part of a landscaped feature. Given the size of the property and the fact that the closest building is setback 180 ft. from the street, staff is willing to go with a modified condition that would require that the sheds not be removed or demolished until a building permit is to be issued on Lot 1 instead of the signing of the final plat.

Wayne Smith (Applicant) – Would like to hold off on the landscaping and sidewalks and complete them all at one time.

COMMISSIONER VAN OCKER MOVED TO APPROVE SUB06-59 WITH A MODIFICATION TO CONDITION #3 TO READ: THE EXISTING DETACHED ACCESSORY BUILDINGS ON LOT #1 SHALL NOT BE DEMOLISHED (WELLHOUSE, STORAGE FACILITY AND OLD ICE HOUSE UNTIL THE ISSUANCE OF A BUILDING PERMIT FOR LOT #1.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

SUB06-00060/Cayenne Corner Subdivision
Location: On the west side of Pierce Park south of Hill Road
18-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Scott Spjute presented the staff report with a recommendation of approval. The applicant has 3 items of contention. ACHD is asking for a stub street to the property to the north and is a condition of approval. ACHD is asking for either a 7 ft. attached sidewalk or 5 ft. detached sidewalk on Pierce Park Road. City Staff is recommending that it be a 5 ft. detached sidewalk. The Ada County Street Name Committee is requesting that the street going through the middle of the subdivision and which aligns with Lamplighter Street to the west be called Lamplighter also.
Evelyn Grime (Applicant’s Representative (720 Idaho St./#20/Boise) – Proposed a modification to condition #3. Providing a 5 ft. detached sidewalk would create a 7 ft. landscape strip then there would be a 20 ft. landscape buffer. Would rather propose a 12 ft. landscape buffer between Pierce Park Lane and the detached sidewalk and put the sidewalk into an easement within the 20 ft. landscape buffer. The applicants will continue to live in the proposed subdivision in the current home. An adjacent property owner, Jeffery Simmons, submitted a letter in opposition to the stub street and should be a part of the record. As a compromise would like to put in a northern stub either on Lots 13 or 14 to alleviate potential cut-through traffic.

Chris Bray (Applicant/6301 N. Pierce Park Ln./Boise) – Would like to honor his mother and leave the Bray name for the street. The street name regulations are at discretion, not an absolute decision. Thinks extending Lamplighter will cause confusion as there is no link to the existing Lamplighter Street. It dead-ends at a cul-de-sac.

COMMISSIONER WILSON MOVED TO APPROVE SUB06-60 AS PRESENTED IN THE STAFF REPORT.

COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Wilson – It sounds like some of the conditions that are in dispute are actually within ACHD’s jurisdiction and not within the jurisdiction of this Commission which is unfortunate because I feel like we’ve sat around and talked about a lot of things that we really can’t talk about. I think the subdivision itself looks good and that with the inclusion of the sub street to the north that will help in the future. It’s important that we have that kind of connectivity in place for the future.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of July 10, 2006 – COMMISSIONER VAN OCKER MOVED FOR APPROVAL. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of July 17, 2006 – COMMISSIONER COOPER MOVED FOR APPROVAL. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.
Planning & Zoning Commission

Hearing Minutes of
August 14, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Brian Ellsworth, & Tony Orman.

Staff Members Present
Bruce Eggleston, Cody Riddle, Sarah Schafer, Scott Spjute, Andrea Tuning, Vicki Van Vliet & Mary Watson (Legal).

Withdrawals
CUP06-00049/Idaho Fish & Game
CAA06-000156/Bunting Building Corp.
CUP06-00058/K&T, Inc. & Mike Taylor

Time Extension
CUP05-00044 & CVA05-00013/Daniel Prohaska – COMMISSIONER WILSON MOVED TO GRANT A TIME EXTENSION TO JUNE, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Deferrals
CAR06-00030/Boise State University – COMMISSIONER WILSON MOVED TO DEFER TO SEPTEMBER 18, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda
SUB06-00020/Therrin Subdivision
Location: On the south side of W. Bethel Street between N. Orchard and N. Phillipi Streets.
4-LOT COMMERCIAL SUBDIVISION.
CAR06-00035/Wight Capital, LLC.
Location: 2630 & 2636 S. Broadway Ave.
MODIFY THE DEVELOPMENT AGREEMENT ASSOCIATED WITH THE HUMAN BEAN DRIVE-UP COFFEE SHOP TO CHANGE THE CURRENT HOURS OF OPERATION IN AN L-OD/DA ZONE.

CUP05-00135/Mod #1/Wight Capital, LLC.
Location: 2630 & 2636 S. Broadway Ave.
MODIFY A CONDITIONAL USE PERMIT ASSOCIATED WITH THE HUMAN BEAN DRIVE-UP COFFEE SHOP TO CHANGE THE CURRENT HOURS OF OPERATION IN AN L-OD/DA ZONE.

SUB06-00055/Arc Edge Condominiums
Location: On the northeast side of Crescent Rim Dr., south of Morris Hi1
66-UNIT CONDOMINIUM SUBDIVISION.

SUB06-00056/Pardo Court Subdivision
Location: On the north side of Cassia west of Orchard
2-LOT COMMERCIAL SUBDIVISION.

SUB06-00057/Gentry Place Subdivision
Location: On the southeast corner of Shoshone and Canal Streets.

SUB06-000044/Ice World Subdivision
Location: On the Northeast side of Eisenman south of Gowen Road.
2-LOT COMMERCIAL SUBDIVISION

ON THE CONSENT AGENDA, COMMISSIONER COOPER MOVED TO APPROVE THE ABOVE LISTED APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00036/DA/Therrin D. Robertson
Location: 5103 W. Bethel Street
REZONE .19 ACRES FROM C-2D TO M-1D WITH A DEVELOPMENT AGREEMENT.
CUP06-00063/Therrin D. Robertson
Location: 5103 W. Bethel Street
CONSTRUCT 3 OFFICES WITH ACCESSORY STRUCTURES ON 1.2 ACRES IN AN M-1D ZONE.

Andrea Tuning presented the staff report with a recommendation of approval with a modification to increase the building’s footprint by 50% to be used for office space, not the 65% requested by the applicant.

Commissioner Fadness – For the record received a letter from Loren Miers-Reynoldson.

Joe Canning (Applicant’s Engineer/5505 W. Franklin Rd./Boise) – We are just concerned about the conditions that are placed upon the approval of this conditional use, requirements 3, 4, and 5. #3 is the one for the maximum 50% of the gross square building area for office space. #4 is part of that and #5 is the minimum setback for the proposed building and parking adjacent to the single family residential dwelling. This project is small. It’s 1.23 acres. We are proposing a condominium project. Those condominiums will essentially consist of 11 businesses. These are contractor type businesses. With the size of the site, we certainly feel it is a good use of the M-1 zone. I think it’s important to point out that the existing single family residence that is just east of the bulk of this property is zoned M-1D, it just has a single family home use on it. I think the first paragraph of Loren’s letter really summarizes what we are concerned about. It says: “We respectfully submit this letter in response to that certain Planning Division staff report related to application #CUP06-36 in which staff recommends approval of the application with certain conditions. Specifically staff recommends that no more than 50% of the gross square footage of any one building in the proposed subdivision be utilized as office space. Staff’s recommendation is based on the assumption that Mr. Robertson is applying for an approval of a contractor’s yard, shop and any office space included in the proposed condominium project as an accessory use. However, office uses are a conditionally approved principle use in the M-1 district. Accordingly, such use in the proposed condominium project should not be deemed an accessory use, therefore capping the amount of square footage for such use. We respectfully request that the project be approved as submitted with no condition on the amount of square footage to be used as office space. That is the purpose for the conditional use we submitted. I believe without that we could have gone up to the 25% office space just under the existing zone, but I think the entire point is that’s the different of opinion. We don’t think it’s an accessory use. We think that’s why we are asking for the conditional use. That is why we are requesting the difference. I think if you put it in perspective with the 11 units we’re asking for, really what Mr. Robertson is trying to do is provide enough office space in each one of these businesses that would permit at least an owner to have an office and then maybe a secretary, so this really isn’t a large amount of office space in each one of these units. This project doesn’t quite fit into most of the definitions that are in the Zoning Ordinance. We actually had 3 separate pre-application meetings with the City on this project trying to get this round project into a square hole. There was a different recommendation out of each one of those 3 pre-application meetings. We actually applied under the second recommendation a few months ago. Got a pretty negative staff report so we back-
tracked. The use wasn’t a concern. It was how we were doing it. We withdrew that application, resubmitted with this particular conditional use. This has been around for 2 or 3 years already. We’re in agreement with all of the conditions except for the 3 I mentioned. On the setback, we did notice in the building setbacks in the Boise City Code under the M-1 zone, it does say side yard and in parenthesis it says: “Where side lot lines coincide with side or rear lot lines in an adjacent R district.” It specifically says “R” district. It does not say an “R” use. The single family home that is off to the east side of this property is an M-1D zone. All of the other calls in this transitional area do include districts and uses. We just noted that this particular one for a side yard was specifically left out. There is no mention of use. So when we designed the project, the side yard requirement, at least in our opinion, was zero. We’re showing a 10 ft. buffer along that line and we thought that was quite reasonable. So we were rather surprised when we got this staff report and it said the minimum requirement was 15 ft. I think perhaps it’s just a difference in the way that is read.

Commissioner Ellsworth – What’s your concern with #4, every building permit submitted within the development shall include a table?

Mr. Canning – We presented that condition because of condition #3. It’s not specifically a concern, but I think it’s condition #3 where that comes from.

Commissioner Ellsworth – Under the current zone you’re allowed 25% office in a C-2D?

Mr. Canning – In an M-1 I believe, and that’s without a conditional use.

Commissioner Ellsworth – It could be all office.

Mr. Canning – The majority of the property is M-1 and the rezone we’re requesting is going to M-1.

Commissioner Ellsworth – The purpose of the rezone is because there’s M-1 and C-2D on the same property.

Mr. Canning – Correct. The last application we submitted tried to go to a C-3.

Commissioner Cooper – You mentioned that there are 11 separate suites in the project and that the 65% provides basically an office and a secretaries office for each one so that tells me there’s only line an office worth of space left in each one of these units for the actual industrial use, is that correct?

Mr. Canning – It’s probably about correct. The idea behind these units is that there are quite a few contractors that are either their own sole proprietorship or perhaps have a secretary. They’d have maybe a van or a commercial vehicle. One of the requests from some of the folks is they’d
like to pull that into a garage at night and close it up but still have an office where someone could answer the phone. The other area is more garage or warehousing.

Ms. Tuning – I do want to clarify the 15 ft. setback that is required as a condition of approval of the conditional use permit. In our Zoning Ordinance, both on-line and the hard copy, it is a misprint that does say that a 15 ft. setback is required in a transitional yard, a side yard or a rear yard. It does specifically say in the “R” district consistently throughout the Zoning Ordinance and all other locations and within the definition of transitional yards. It does specify that whether it be a use or the zone, so staff has applied this consistently and is certainly not picking on the applicant. We’re applying it consistently in this case.

Commissioner Fadness – Whether it’s an “R” district or whether there’s just one home there, the requirement is the same.

Ms. Tuning – That is correct. If it is a residential use or a residential zone, we require an additional setback to provide a transitional yard so that it won’t impact that residential use or zone significantly. The 15 ft. setback would be applied to both Building #3 as well as the parking (along here) as well as the property line (along these buildings).

Mr. Canning – In the Code there is no definition of contractor’s yard and I think that’s what’s causing a part of this problem of just what is this animal. I think that is a lot of the issue that we have.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-00036.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I think that it’s really important for us to keep as much industrial and contractor types of uses in the city as we can. This is something that has been very difficult for us to keep in the city as we tend to go more towards commercial and service uses. We need to be able to keep a place in the town where we can make stuff. I think this rezone is excellent and also brings a couple of pieces of property together under one use. MY MOTION WILL ALSO INCLUDE THE MODIFICATION TO THE STAFF REPORT THAT THE COMMISSION RECEIVED TONIGHT.

MOTION TO RECOMMEND APPROVAL CARRIED UNANIMOUSLY.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-00063 WITH A CHANGE TO CONDITION OF APPROVAL #3 TO ALLOW UP TO 65% OF THE GROSS SQUARE FOOTAGE TO BE UTILIZED AS OFFICE SPACE.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.
Commissioner Wilson – I think that what the applicant is doing here is exactly the kinds of uses that we’ve heard requested many times up here. A lot of people come into a commercial zone and ask to be able to store stuff or assemble stuff or make stuff and usually we can’t do that because of competing uses or adjacent to residential or any number of things. We’ve has a really difficult time. I can think of 2 or 3 applications where people had wanted a kind of a quasi-light industrial use and we’ve been unable to accommodate them. I think this project is really good in that respect. I kept condition of approval #4 because we’re still keeping a cap on the amount of square footage so I think it’s important that the applicant report that when the building permits come through. I also kept the 15 ft. setback for the reasons that staff provided, that we’re treating everybody the same across the board despite the fact that the ordinance isn’t perhaps isn’t as clear as it could be.

Commissioner Cooper – I’m going to support the motion. After the discussion with Mr. Canning it’s clear that it’s really the scale of this operation that causes the percentage of office space to be what it is. We actually have seen conflicts where contractors who are trying to figure out what to do with their truck, which is their whole business because they can’t keep it in their driveway, and so they really need a place to keep it. I think this is just a perfect solution to that. I also agree with leaving the other conditions in. I think that there is a good case that there is a residence and we should observe the setbacks.

Commissioner Ellsworth – I think it’s important to note that this was already a C-2 zone, meaning that you could have all office there so I think this is a good compromise and I think the 65% works just fine based on this being a C-2 zone.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

CAR006-29/DA/Jacqueline & Duston Rose
Location: 8770 W. Overland Road
REZONE .66 ACRES FROM R-1C TO C-1D WITH A DEVELOPMENT AGREEMENT.

Bruce Eggleston presented the staff report with a recommendation of denial.

Duston Rose (Applicant/6954 W. Hollyland Dr./Boise) – Most of the neighbors when they came to the neighborhood meeting did not voice any concerns with the floral design. There were a few things like lighting and the fence in the back. I think that my design that staff showed you will meet the mail. If you look at this, the driveway in the back, this was a restriction. There’s 27 ft. actually from the property line to the garage. It requires 30 ft. It’s a fire code so that you have a space large enough to have a 10 ft. setback and 20 ft. for fire vehicles. So, that being the restriction, rather than tear down the whole garage I went to see the Fire Marshall who gave me this statement. He said the Fire Code does not cover it. The reason it doesn’t cover it is because if you look at the access to the property the hoses from his fire trucks intersect (here) which means they cover the property and therefore the Fire Code requirement for 20 ft. does not apply to my property. Gave that to staff but he might have missed that in the analysis. That’s the
difference so you don’t need 30 ft. My drawing here is actually 17 ft. which is adequate for vehicle traffic. Overland Road is very busy. If you’ve ever stood out on Overland Road, which I think all the neighbors have, you can’t even get out hardly which means that we are going to have to close both of the existing driveways. We understand that we’ve got to do that and it’s not a problem. We’ve incorporated that in the plan. The type of businesses that we’re envisioning really doesn’t create much more traffic. In fact ACHD gave an approval for this plan. Their staff review said fine. That’s in your report. As far as us generating a lot more traffic on Chase Street, I really don’t see it. When you’re talking about the type of business activity we’re doing, it’s not going to create the traffic snarl that you would have if you had a Sonic. Sonic’s across the street from our property has a tremendous amount of traffic going there all the time. I just got a notice the other day which I think the whole neighborhood did, a fella wants to apply for a 300-bed restaurant. Right next to us on the corner you have a 7-11, Jackson’s. Right across we’re talking about C-2D which is a lube job. This whole area really, the character on Overland Road has changed dramatically in the last 2-3 years to the extent that anybody that faces here along this way, a residential use, it’s just not feasible. I think there was an application right next to us that recently was not approved, but they were applying for a commercial use, but if you look at their property you can see why. One house is vacant the other one has got all the cars up on blocks. It’s not feasible for families any longer. What we are proposing to do is to take what used to be a very lovely home and make that home look the same way. The neighborhood will be able to enjoy the ambience of very nice greenery, shrubbery. The existing trees there are there we are going to keep. That’s why the plan is written the way that it is so that with a floral design shop it augments that use. The reason why I’ve incorporated a few additional retail uses, if you want to sell coffee you can. If you want to have a wine tasting thing and sell a few bottles of wine you have to have the ability to do that. If her business succeeds and she moves onto something else, if I’m restricted to just a floral design use I’ve got to find another florist to go in there. Otherwise I’ve got to come back here and plead with you to allow me to have an xxy activity in there. I’m not asking for very much, really. Just a little bit of room here to make this work. I think we can. The agreement that came in, I don’t have any problem with. If we go in with the L-OD, the neighborhood office, I can’t have a retail use.

Commissioner Ellsworth – What happens if the business plan fails?

Mr. Rose – At that point I have to find another tenant. That’s why I’ve said okay, I need a little more latitude so that if someone wants to come in there that’s not a florist, that maybe wants to be a hair designer or run a nail shop or something of that nature, I would have the ability to do that. Right now it restricts it to mainly office like a dentist or doctor’s office or limited office use mostly and a little bit of retail for a small restaurant. Basically there’s no provision in there for a drive-thru like across the street which generates high traffic at Sonic. It’s very, very restrictive. As I understand this development agreement, you can’t go outside that at all. If you violate it you are immediately put back to R-1C according to that agreement I believe. The neighborhood’s concern about me doing something I shouldn’t do there is pretty well nailed down and covered because it’s in direct violation of City Code if we were not to follow it.
Kevin Merrell (1547 S. Allante Pl./Boise/83709) – As a neighbor one street over from Chase to the west, I stand with the folks on Chase who oppose granting a change in zoning for the corner property to commercial. It’s my way of thinking that it’s like giving the applicants a blank check that may or may not be used in the future to the mutual benefit of the neighbors and the proposed business. I would prefer to see the property rezoned to L-OD. I believe it does not serve the shared interest of our neighborhoods to open the way for commercial ventures at the mouths of our streets. As with the recent proposal, the corner of Allante and Overland that they referred to, access to the proposed business on Chase would erode the experience of a neighborhood by increasing traffic in and out of the street. I therefore would urge the Commissioners to give thoughtful consideration to the staff’s recommendation for denial.

Chet Stinnett (1200 S. Chase/Boise/83709) – It seems to me every time we turn around somebody is trying to commercialize some Chase Street. There are a lot of us on that street that believe that if this business goes in there’s another one on the corner. We fought Zamzows for over a year to keep them out of there. We finally won on that. There’s another business that went in there now and the traffic has increased just from that. It was approved. I’m not sure what all is in there but there’s about 15 cars there every day that pull in and out on the left side of the street as I try to exit sometimes. It’s almost impossible for me to get on Overland and I think all my neighbors will agree with that. A lot of times I have to turn right, go down to the light on Maple Grove if I want to go east. It’s kind of disheartening to see people trying to make our street go commercial. I object to this.

Lana Hale (1320 Chase St./Boise/83709) – My objection is that most of what he has talked about is something he could have with in an L-OD zone with a conditional use permit except for the restaurants and for other things that would bring in a lot more traffic bearing problems to our street. What he’s proposing now will bring three times as much traffic onto our street according to the Planning Staff. As you know the last time we were here, there was a lady that came up. She had a child with problems and she walks that street. There are also 22 children on that street. I’m a grandmother raising 2. They have to go on the street, on his side right there for the bus. We have really enjoyed the L-OD project right next door because they are there from 8 to 5. It’s not congested. We have terrible congestion. I’ve seen old people get really upset because we can’t seriously get out of that place. I do not feel that the L-OD on our street right next to us, it’s just been great. If we’re going to have something that was nice and I’m glad we fought for it and I’m glad we have it but I think anything commercial is going to bring in a lot more traffic, a lot more density and a lot more problems for these children and our street. I don’t think it’s compatible. I think L-OD with a conditional use permit would be fine.

Betty Bermensolo (Representing the Southwest Ada County Alliance/1970 Cannonero/Boise) – I feel that it’s very important for us to remember again that Chase Street is an older neighborhood. It’s surrounded by commercial, yet there are a number of reasons why I know that the residents in that neighborhood would like to stay there. There are a number of them that are elderly and accessing the services, Walmart, in the area is one reason why they wouldn’t like to be forced
out of that area. But traffic does play a huge role in their ability to stay where they are. The fact that it's combined with a special needs child that sometimes can wander off as well as the needs of the residents that are aging on that street, I think is more compelling to look at what we had talked about to the applicant at the time that we left her here was asking for an L-OD or an N-O zoning and I looked at Boise's Zoning Ordinance and it looks like it's similar to an optician's shop. A condition use would be all that would be required for the floral operation. It even looks like there maybe some options with a conditional. It looks like some of the items that would make this use functional for his immediate needs and then even conditional uses for something that may need to come at a later date. But it isn't an open book. It isn't something that we're going to have really be concerned about and that would come with a commercial zoning. I think that when we have situations where we're seeing properties that are transitioning because of growth in the area, we still have to look at protecting the existing neighborhood. I think that's where we are right not. I'd really like to see the particular situations that exist on Chase Street be looked at. The fact that they have had an office use on the east entrance of Chase Street, it's worked very well. It hasn't increased the trips to a point where it was unlivable, but the proposal that I see it that the applicant has laid out to me lends me to be much more concerned than initially a floral shop usage, possibly a real estate office use. Those are the only uses that were brought up at the neighborhood meeting. Everything else that we are hearing tonight has spilled out from that point. There was no mention of anything but a floral shop and real estate office at the time that we met. I ask the Commissioner to look at L-O or N-O as staff has recommended and not allow the commercial C-1 use.

Brian Fenrich/1415 Chase St./Boise/83709) – I agree with what they've said. It's pretty much like writing a blank check. If he gets commercial he can do whatever he wants. He hasn't even said what he really wants to do. As far as the traffic goes that he referred to on the map and the surround area that traffic is not coming out of our street. That is the traffic that we are fighting. Two more cars on our street is a big deal when you already have to sit there for 10 to 15 minutes to get out. I don’t understand what he wants to do because he hasn’t said.

Mr. Eggleston – I would like to introduce things into the record that were introduced at the last meeting that were not included in your packets. First is a letter from Mrs. Bermensolo who just testified dated July 17, 2006, the date of the previous hearing. Pretty well her testimony summarizes what's in the letter, opposition to the case. The second item is from Pamela Williams who also had issues with the traffic, trash collection. This is our Solid Waste Program Coordinator. Thirdly, a petition from the Chase Street residents that was hand delivered on July 14, 2006 with some comments that have probably been capsulated in the testimony, but in general opposing the proposal with 25 signatures on the petition.

Mr. Rose – Mr. Fenrich, I’d like to make it very clear now, the primary use that we always said we were going to do was a floral design shop. The reason why some of those uses were included was if in the event the business failed or succeeds and grows and moves onto somewhere else, you have to have a little bit of flexibility. The reason why you have to have a little bit of flexibility is because after putting a significant amount of money into developing that property, it
may not be possible to find a florist to come in there. We may have to settle for a hair designer or a dental office, etc. That’s why it doesn’t say just floral design. Let’s talk about traffic. That’s a very real concern for everyone. Children getting on the bus, that bus shouldn’t come down Overland to pick-up those children on Chase. It should turn into Chase Street, go down Chase Street and pick-up the local residents’ children. Why it doesn’t do that is something that the Commission should look at. The fact that I have a business there or I don’t have a business there doesn’t alleviate the problem for the neighbors about where their children get picked up by a school bus. That should be something that the Commission should address. The problem of getting in and out of Chase Street, it’s difficult as was pointed out here. A traffic light would be excellent. You have a Sonic right across the street. You’ve got a lube shop across the street. You have an application now across the street for a 300 bed hotel. That’s going to create a traffic snarl unless you put a light in there. Whether or not I get approved or not approved, that problem will continue because it’s there right now. I don’t think that my business, that I’m proposing would add significantly to it. Ada County Highway District didn’t think so and they approved this. I understand the residents concern with saying it’s commercial, C-1D, but as I understand your development agreement I am strictly limited to what’s in that agreement and what was listed by staff up there which is very, very limited. If you look at what C-1D includes, there’s about 72 uses. I think I had 3 up there. I don’t think we are asking for a great deal. It is transitional. We’re trying to match the neighborhood with the property. If you put in a light office even, you have the right to tear it all down and build something new with maybe new landscaping. All those trees go, everything comes out of there. I’m not proposing that at all. I’m proposing to use the existing building to make it look like the neighborhood. I think that has real value and should be considered favorably because we don’t intent to disrupt what the neighborhood is all about. We’re trying to blend in and I think maybe that’s been misunderstood.

COMMISSIONER ELLSWORTH MOVED TO DENY CAR06-29. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Ellsworth – Although I do feel that the development agreement limits the use really in a very strict manner, and I do understand why the developer is trying to do this, I just have to listen to the neighborhood come out in opposition and the neighborhood association come out in opposition. I tend to agree that rezoning this to C-1 is not compatible with the neighborhood and there needs to be a more transitional use, probably an L-OD.

Commissioner Wilson – I just see a rezone as a very long-term change to what is even admitted to by the applicant to be that he’s going to try out this business and he hopes that it works but he needs to keep his options open in case it doesn’t, then if it is wildly successful and takes off to another location then he needs something else follow in behind that. Rezones are nearly permanent. They are one of the most long-term things that we do and I would be more comfortable in going to an L-OD or something that is a little more compatible with the neighborhood and then we can condition some uses from there instead of going all the way up to
commercial and then trying to limit commercial. I would be more comfortable in doing that just because of the nature of the long-term change.

MOTION TO RECOMMEND DENIAL CARRIED UNANIMOUSLY.

**DRH05-00387/Joshua Rundus & Tower Plaza Condominium Association**

Location: 100 N. 8th Street

APPEAL THE DESIGN REVIEW COMMITTEE'S DECISION TO APPROVE A REQUEST TO CONSTRUCT A 6-STORY RESIDENTIAL DEVELOPMENT AТОП AN EXISTING BUILDING IN A C-5DDC ZONE.

Commissioners Wilson, Ellsworth and Cooper recused themselves from the hearing on the appeal of DRH05-387 as they served as liaisons to the Design Review Committee while this application was going through public hearings.

Commissioner Fadness stated that the Code requires that only the Parties of Record, those persons who submitted testimony at previous hearings in either written or oral form, will be allowed to submit testimony on the appeal.

Sarah Schafer – I would like to enter into the record a signed statement by our clerk who did all the transcribing of the minutes. It’s actually referenced to on page 2 under item #1. This statement is from Paula Schmidt who’s the Design Review Secretary. She was at the hearing on May 31st. She was familiar with the testimony and she was able to transcribe the record. There is a similar statement in your packet from the applicant who had the record transcribed as well.

Commissioner Fadness – For the record we’ve received a signed statement from Paula Schmidt.

Ms. Schafer – This is an appeal before you by Josh Rundus and the Tower Plaza Condominium Association. They are appealing the decision of the Design Review Committee to approve the request to construct a 6-story residential development atop of an existing structure located at 100 N. 8th Street in the Central Business District with Downtown Design Review and the Capitol Blvd. Special Design District. That’s the C-5DDC zone. The appellants believe that there were procedural defects and that the design of the project violates code. I'm going to show you some of the elevations for the project so that you can be familiar with the design before we start with the appeal findings. This is a photograph of the project as would be seen near the top of the parking structure that's currently existing in the middle of the block. The site is located between Main and Idaho streets along the 8th Street elevation. This is a view of the structure as it would be seen from the parking lot of the U.S. Bank Building between U.S. Bank and the Grove area. This is an elevation of the 8th Street façade. This project shows the balconies, modulation of the wall planes as well as modulation of the roof line. This project is slightly different from what the applicant is actually going to be constructing because the atrium is no longer in this location. However, there is a space between the two structures. It’s constructed more as two separate buildings instead of an atrium space. There’s a clear break between the buildings but the
catwalks and the walkways between the two structures remains. This would be a view of the structure with additional design detail added along the east façade of the building to provide windows and balconies. The appeal before you tonight states that there were several procedural defects that happened through the Design Review process. First, the appellants state that there was an adequate hearing record due to the malfunction of the recording device at the hearing. City Staff has listened to the tapes and there’s been a complete transcribed record of all the public hearings and work sessions for this project. The appellants do not state where they felt there were any skips or blanks in the tapes that would not allow an appropriate hearing transcription. Again, I have submitted a sworn statement from our clerk that stated she was able to transcribe the record. As part of the applicant’s case for this project on this appeal they have also had a sworn transcripts from their own people transcribing the record as well. If you would like we also have the tapes here on file if you would like to listen to them. The appellants also states that the project that was approved is different from the project that was noticed. The appellants state that the initial notices that went out on the project were for an 81-residential unit addition to the building. The project is currently 90 residential units. The appellants also state that this change exacerbates the problems associated with the project, that they were not given adequate time to prepare for or respond to this change. For the work sessions that followed the initial public hearing on this item, there was a change in the legal description. Initially we advertised the item as an 81 residential unit condominium project. The Design Review Committee placed a condition of approval on the project that the east façade should be designed similar to the project on the west, north and south facades, therefore inferring that they needed windows, balconies and residential units on this façade as well. Not knowing how that condition of approval would change the project, the legal statement then changed for all of the work sessions and following public hearings to Rental Housing, Inc. requests a work session with the Design Review Committee to fulfill the requirements of the conceptual approval to construct a 6-story residential development on property located at 100 N. 8th Street in the C-5DD zone. This is the work session that was described at the April 12th work session. None of the neighbors, applicants or the appellants asked for a continuance on the project to further review the changes to the design. This was a condition of approval that was placed on the project because of the input that the appellants had on the project. They had requested that the design be similar on the east façade as to what the applicant was already proposing on the west façade. The third item under contention tonight is that there was no quorum. The original advertised work session was scheduled for June 28, 2006 at 6:00 p.m. The Committee did not have quorum available to start the hearing until approximately 7:00 p.m. Staff was on site here at the hearing room at 5:00 p.m. to allow for any of the neighbors to review the materials to be presented that night at hearing. Once there was notice that there was not going to be a quorum until 7:00, staff notified everyone that came in to the office that the hearing was rescheduled for 7:00 p.m. A statement was made that there was not adequate notice of this. Like I said, staff was on site and was able to direct to everyone that the hearing would take place at 7 p.m. at the same location. Chairman Erstad stated we had a number of meetings on this project, which the record will reflect, that have extended 3-4 hours in length. There was no indication that this hearing item would have lasted less than those hearings so for anyone to think that from 6 p.m. to 7 p.m. that the work session would have been over would have been a far fetch at this work session as well.
Therefore even if the meeting had started at 6 p.m. it would have extended beyond 7 p.m. and if anyone needed to leave they could have left written testimony with staff and staff would have read it into the record for them. Regarding the alleged improper design, item #1 from the appellants is that the project violates the Capitol Boulevard Special Design Standards. The appellants state that the project does not comply specifically with Section 11-07-09.05H of the Boise City Code. The project is not designed to the highest standards and has no special treatment, displays no distinctive roof line. The standards referred to by the appellants are standards 1, 2, 4 and 5 of that section. As part of staff’s response to this project, at the work session held on June 28, 2006, the Committee went through the relevant code sections for this project item by item. Specifically Committee Member Chairman Christensen stated in regards to Section 11-07-09.05H 1 and 2: “We have talked about building materials at great length during the multiple hearings for this project and with the modifications that we have made here tonight, we have, I feel, have met a high standard of architecture through the use of not only the stucco material that we have here that applies to many buildings that are within the surrounding vicinity, but also adding the additional requirement for the GFRC which brings into not only a different material but a visually higher quality material with how that will be articulated with the use of larger joints. With the articulation of the still balcony guardrails and supports and detailing and the use of the additional metal accents, I feel that we have comfortably met items 1H.” They go on to state, in Section 11-07-09.05H4, Chairman Erstad stated: “While visible from Capitol Blvd. it will be benefiting from the additional GFRC the recess in the windows, the articulation of the corner elements throughout.” With regard to Section 11-07-09.05H5 Committee Member Christensen stated: “The applicant has provided us with a design that we have approved here tonight that shows the distinct termination of the building façade. It does give the building character and definitely is compatible with the architectural style of the building and complements the building’s architecture.” With those statements directly added to the record by the Committee Members of the Design Review Committee, staff feels that the Committee did adequately address Section 11-07-09.05 of the Capitol Boulevard Standards. Items 2 and 3 under the alleged improper design of the structure from the appellant were that the project is too big for the site and that #3 was the aesthetically the project is universally unappealing to the eye, incompatible with the existing structures. Lacks creativity in the façade and the design elements and as such violates the provisions of Section 11-07-03.02 of the Zoning Ordinance. Section 11-07-03.02 of the Zoning Ordinance deals with the building mass, proportions of the building facades, relationship of openings in the façade, relationship of the exterior materials, multi-family buildings including additional design materials so that they are not boxlike in appearance. Specifically under Section E which is the multi-family finding, it states that building walls facing residential units, uses or zones shall be visually interesting and variety which is where the condition of approval came from that the Design Review Committee placed on the project to add additional detail to the east elevation similar to that seen on the west elevation, meaning windows and balconies. At the June 28th work session the Committee Members stepped through the project finding by finding. As part of staff’s analysis on this project, they did stated that at the May 31: 2006 work session, Committee Member Simmons stated that he liked the structure as it was constructed at that point. However, Committee Member Christensen stated: “Personally I think if we push it a little further, a little bit harder and make this building a great
building that we can all be proud of and look at the details.” It was Committee Member Christensen at the June 28th hearing that then stated that the building had come through a full revolution and had come to an appropriate design. Specifically it was Committee Member Christensen that stated the reasons for decision in regards to each individual criteria in the ordinance. Section 11-07-03.02, the task that we are here tonight to insure that we have met was item C, relationship of openings and facades. “Openings and facades shall be consistent with the architectural character of the area.” For example, balconies, bays and porches are encouraged with minimum monotonous flat planes to provide shadow relief. The design that we have approved here tonight has multiple changes and planes, includes balconies, bays and many of the items that were designated in item 1C. I do strongly believe that we have met this requirement. They additionally addressed item D, the relationship of the exterior materials. Starting off there was a functional appropriateness. Functional appropriateness for the proposed building design as it relates to the proposed use or use in residential in the building and architectural design highly speaks of the residential building with the use of balconies and shadow relief. When somebody was to walk by this building they would clearly be able to indicate that it was a residential use based on the architecture that we have approved tonight. The building mass has been developed such that the proportions to the surrounding areas into the structure upon which has been developed relate well and will tie into the surrounding area. With regard to shadow relief, again the balconies and the many different changes in plane provide very exciting shadow relief for this project. Christiansen further addresses item E specifically. As previously mentioned the applicant has brought forth for review here tonight a project that contains many of these items starting with balconies, modulation of the building façade, modulation of the roof plane, the use of different high cornices accenting the corner of the building with the use of higher, more defined cornice versus the cornice that is within the main body of the building. I feel strongly that we have met the requirements. The fourth item that the appellant has brought forward to us tonight is that the design does not adhere to Section 11-07-03.02F2 which states: “Commercial and industrial buildings adjacent to residential uses.” Item #2 states specifically that building walls that face residential uses or zones should provide visual interest through the use of a variety of materials. This finding that the appellant has stated is specifically required of commercial or industrial buildings which are adjacent to residential uses. This is a residential property adjacent to a residential property, therefore this finding is not one that the Committee had to make. In conclusion, staff finds that there were no procedural errors on the project. The date, time and place of all hearings and work sessions were made public and a clear record of all hearings and work sessions associated with the case have been kept. The original approval in April, the appellant requested design changes to the east façade including balconies and fenestration similar to the north and south elevations. As part of that, additional units were added to the project. I might also add that the number of units, density and floor area ratio of properties within a “D” zone are not under the purview of the Design Review Committee. The Ordinance specifically prohibits the Design Review Committee from reviewing density, reduction in floor area or general bulk requirements. Therefore it never did matter how many units were in the project for the Design Review file. Staff believes the Design Review Committee adequately addressed all of the findings for the project. They specifically went
through each finding at the June 28th work session and addressed each one as part of their motion.

Fred Shoemaker (Attorney Representing Appellants/815 W. Washington/Boise) – Since we just have 3 members of the Commission left I just want to make sure, before all of us spend a lot of time tonight, if your counsel has advised you that we have a quorum necessary for purposes of proceeding.

Commissioner Fadness – It requires that there be a quorum present which there is, but we don’t necessarily have to have a majority vote.

Mr. Shoemaker – Let me follow the items that staff has addressed and especially as they’ve addressed in the document that each of you have been given. I want to start with what I will call the rules of the game. Just by way of background, the people that I represent are the residents and business owners of the Washington Tower. That’s the multi-use project just on the other side of and due east of the common Capitol Terrace Garage. I think it’s fair to say that those business owners and residents would be the most impacted. Certainly not the only people impacted, but the most impacted design wise and functionally by this project. Design because they have to look at it every day out there office windows and homes and secondly functionally because under the proposal they would share what’s called the Capitol Terrace Parking Garage. In terms of the rules of the game, I think I want to suggest in looking at counsel for the applicant’s paperwork that she has tried to unfairly narrow your purview of what’s going to be considered by our testimony and the public testimony tonight. Let me try to outline what I think is your license to make a decision. She would have you limit your decision to just the four conditions of appeal from the June 28th hearing which was the last hearing. We believe that’s flat wrong and let me tell you why a little recent history on this, and this has a long history going back to the initial application in November, but the recent hearing is on April 12th. At that evening the Design Review Committee approved this project subject to some subsequent conditions and a public work session. It’s interesting to note and you have this in your packet, at the conclusion of the April 13th letter, staff tells us that: “The appeal period will not begin until after the public work sessions that the Design Review Committee ordered. Then the May 31st, the first of two work sessions, was conducted and staff issued a June 2nd letter. I didn’t see that in your packet so if I could approach.

Commissioner Fadness – For the record we’ve received a 2-page memo from Cody Riddle of City Staff dated June 2, 2006.

Mr. Shoemaker – Everybody got this and of course it’s addressed to Mr. Howell and at the very end you will see in bold print: “The appeal period will not begin to run until after final detailed approval is granted.” And so the decisions that were made the night prior, it’s clear the City Staff was advising us it wasn’t necessary to appeal at that time indeed we could reserve our appeal until after the second public work session which was conducted on June 28th. You’ve heard testimony about that hearing before. And we did, and I think that all can agree, timely file
an appeal within the timeframe after that June 28th hearing. There was a letter issued by the City Staff on June 30th and I filed the appeal on behalf of Mr. Rundus and the Tower Board on July 7th. Contrary to the applicant's assertion, we really didn't have to appeal any of the earlier decisions and all of the testimony and arguments and the contrary positions we took during the course of the hearings are fairly before you tonight. Let me take the issues that we did address. First of all the break in the tape or the transcript problem, I was at the hearing on May 31st and there was a problem with the mechanical tape and in looking at it, despite what the transcriptionist tells us tonight in her testimony, if you look on page 27 of 49 of the May 31st work session, you'll see she enters into the record, which is again I haven't listened to the tape, consistent with my recollection the tape stopped running for a period of time and then started again and you can see on page 27 of 49 that she has typed in a break in tape. We believe there is a problem or a potential problem at least with an accurate transcript that would be before you and perhaps before other bodies should your decision be appealed. Let me talk about the issue of the change in the project as it proceeded over time. Of course, again recall that the initial approval was undertaken by the Design Review Committee on April 12th. At that time we had an 81-unit project and we showed up at the May 31st hearing and at that work session we were presented with plans and had reviewed them beforehand and indeed having now 90 units instead of 64,938 sq. ft. we were faced with a building with 73,995 sq. ft. I guess I just have to say I think staff is flat wrong when you heard her urge to you that gee, the number of units or the size of the building really never created an issue. I take strong issue with that statement. I think we had a different project substantially about 15% large, and that size has always been at the core of Mr. Rundus' and other Tower members' objections to this. Size why? Because of course size intuitively we know the more units the more bodies the more people that are going to impact the surrounding area and in particular impact the functionality of and I'll get to that in a minute of how design is something more than just aesthetics, something more than just a color pallet. We take strong issue with the fact and the City Staff would have you ignore that this project that was worked sessioned, if you will, in May and June, was a lot different project than the Design Review Committee approved in April. Well you can say gee, just 15% more units. Well, to me that's a material change and I think that's the legal standard. I think we could all agree that had the project been twice as many square feet, twice as many units, clearly that would have been a material change. So I think the issue that the appellants have City Staff is perhaps more of one of degree because it seems to be not unfair but king of ridiculous to suggest that staff has that increasing the size units over an applicant's progress doesn't constitute a material change. Staff did say this much right and I noticed that, let me pass next to, let's go to the issue of quorum. Not your quorum here tonight, but again the Design Review Committee’s quorum at the June 28th meeting that not incidentally I was not in attendance, so all I know about what went on at that hearing is what I can tell from the transcript. Ignoring for a moment the observations and editorializations by staff, if we look at the transcript of that record we don't know what happened at 5:00 or 6:00. We know in fact from Chairman Erstad's first recorded comments, presumably at 7:00 the transcriptionist doesn't tell us, if you look at the record, when exactly the meeting occurs, but reading in context the record really doesn't start until 7:00 p.m., the written record. He says words to the effect that gee, people had arranged to try to be here at 6:00. They weren't. Staff has told you that. Mr. Prohaska was here filling in on behalf of the appellants. Mr.
Prohaska objected to the fact that there was not a quorum at the anointed hour. Unlike Chairman Fadness tonight, with regard to an item on this Commission’s agenda, I heard you say: “And is there anyone here who would like to testify that perhaps can’t be at the reset meeting?” No one raised their hand or was heard. I would suggest to you, as Mr. Prohaska reports and the recorded statement that no similar or equivalent opportunity was given those who were here at 6:00 and in fact Mr. Prohaska said that there were people in opposition to the project that were able to make it at 6:00 and didn’t know and weren’t told for sure when the quorum was going to be present, couldn’t necessarily and didn’t show back up at 7:00. So I think that is a meaningful objection, the lack of a quorum and for that reason there is a procedural defect for which requires a remand back to the Design Review Committee. Let me go to the heart of I think, not to ignore those procedural defects, but the heart of the objection by the appellants. There certainly have been changes in this project and I think perhaps slight changes for the better. But at the end of the day the project is still too big, still the wrong project for this site. Unlike other work force housing, River Place by example, it does have, and I say that just by example because even though this is a tax credit project designed in part for low and moderate income folks, that doesn’t mean that that you have to have a project that lacks design. I think that design, and I suggest to you that you could conclude as we urged the Design Review Committee and this not incidentally is a 3 to 1 decision not far from a unanimous decision on the part of the Design Review Committee in approving this project with conditions. Design I think is also, consider when you hear the testimony from the public and interested parties, the relationship of what is proposed with what is already there. On this block we have maybe Boise’s most iconic historical architectural structure, the Egyptian Theater. We have the Washington Tower, the building my clients live in and own parts of. A project that won design awards when it was designed. Truly some people don’t like it but we all know it’s a unique project and contributes something to the architecture. This particular project is located within the Capitol Boulevard Special Design District. Even though one would argue and maybe the applicant’s attorney would argue, gee your purview is really narrow. I just think if you look at this project, can you really say honestly that there’s substantial evidence for the Design Review Committee, or at least 3 members of them, to have found that it meets the highest standards, the highest architectural standards, and that’s what’s required by the Capitol Boulevard Special Design District, 11-07-09.05. I think that’s not too much to ask for this location. This is across the street from the tower or the reformed tower now proposed for 30 stories. It is really Boise’s 27th and Vine. It is the heart of Boise’s urban center and it should be a centerpiece for development of any kind. Initially when CCDC built this project it was planned for expansion of either retail or commercial. That’s not to say that residential can’t happen, but it does create problems relationship wise with what’s already there and you’ll hear more about that later. But, I have to believe that this developer and especially this developer who has had some noteworthy projects and this group of architects could do better at this location, could come up with a better design, a design that we really could be proud of. I’m suggesting that this is one of the last few opportunities to develop a downtown Boise or the very heart of downtown Boise and at the same time by approving what seems to me a substandard project you’re sending a signal maybe lowering the bar a bit too low for a number of other residential housing projects that are slated for construction in and around downtown Boise. I think that one of the issues expanding and concluding then just on this issue of size, the staff
report cites to you 11-08-04. A which states that general bulk regulations or size perhaps aren’t part of or should not be part of the Design Review Committee’s or now your review process except where the design impacts to the detriment of either the public health or the adjoining property values. I’m going to let my clients fill in some detail, but to compress their testimony it is simply this and this has been at the heart of our objection to this project. The commonly shared garage, which has 35 dedicated stalls and only 35 for the use of the Tower residents who use and have a demand for a lot more than 35, this additional, starting out at 81, now 91 residential units which propose only 17 net new parking stalls. In other words that 28 inside, but calling for the permit of elimination of 11 parking stalls on 4 different floors within the garage, so we end up with 17 net new parking stalls for a 90-unit project is not enough. It’s just not enough parking. Even though we all realize we’re down here in a parking zone, where in a technical matter parking isn’t required for this development, but the fact of the matter is parking is already at, at least in this particular garage, an over parked situation between public use and certainly the use by my clients, the residents and patrons and business owners of Washington Tower. So we ask that you think about how overloading this project, a residential project for which this air space was not contemplated, and how it’s going to be to the detriment of and the diminution in value of the Washington Tower Condominium owners. We talk a lot about pioneering downtown housing. Recall of course that among the first if not the first pioneers of downtown housing were the owners, and of course Mark Clegg is the original developer of this project, and so my clients and certainly I’m not against downtown housing. I think downtown housing is a great thing, but I think that even for housing for low and moderate income and some middle class people, still they deserve to have a design that they can be proud of, that the City can be proud of and this project doesn’t meet that highest architectural standard that the Capitol Boulevard statute and ordinance require. I ask that even with the changes that have been made, you ask yourself at the end of the day does this project really meet the highest architectural standards on one of the last few places at the very center of downtown Boise. I don’t think it does. It just isn’t there yet. Some improvements have been made and one of the ways this project could be improved, in addition to the slight design changes that have already been made, are adding some additional relief opportunities, adding as the statute authorizes other than just stucco, adding stone, adding brick, adding some different interest to the façade but also and maybe most importantly downsizing this project. We’ve seen this project grow contrary to the position taken by those most impacted. Instead of shrink, we’ve seen it grow. I think the project, indifference to the design functionality of infrastructure we had there before, principally the garage, this project and residential housing probably does work at this site but not on this scale, not 90 units.

Ken Howell (Applicant/817 W. Franklin St./Boise) – Jim Roper is the owner of Capitol Terrace and has not provided previous testimony. He is here tonight and I assume if the Commission has questions for him you can address those.

Commissioner Fadness – No, not unless he’s been involved in the prior hearings.
Mr. Howell – Your task tonight is not a Design Review task. I heard Mr. Shoemaker talk about how he doesn’t like this design. That’s an old record. But the design changes and the design decision has been made. It was made on June 28th finally and approved. This is an appeal of that decision and the question tonight is were there errors made or was there insufficient evident with regard to that decision? It is not about the size or changing the size or adding stone or matters that Fred perhaps would like to have discussed. This is not the first appeal by the neighbors. This is the second appeal and it’s not likely the last appeal. The first appeal was last December and that restarted the Design Review process. Since December of 2005 the Design Review Committee has heard public testimony on Capitol Terrace Apartments at four long meetings. Here I’m beginning a discussion of really the process that we’ve been through and I think it is important because I’m going to demonstrate that this was no arbitrary and capricious decision by the Design Review Committee. My neighbors and I were there late into the night. The Committee studied every facet of this design, incorporated several suggestions of the appellants. Mike Hall, who was part of the process as CCDC’s representative and previously worked for the City for a number of years in the Planning Department, has this to say about the process: “I’ve never seen anything like it.” I hadn’t either but I don’t have his experience. Over those months of debate we complied with every request and the design is better for these changes. Specifically here are the changes that we made in the design. I’m going to enumerate these because I heard Fred say they were trivial but they aren’t. The first thing we changed was the windows. We upgraded the windows from vinyl to fiberglass. Fiberglass is a relatively new product. It started in Europe. It’s highly rated by the Portland’s Office for Sustainable Development for its thermal efficiency, its resistance to corrosion and ultraviolet light and for its look. It looks like wood. It’s a great product. We redesigned the east face of the building. This was in response to a specific complaint principally of Dan Prohaska, and maybe others. The original design had basically the east side as a corridor, stairwell, elevator side of the building. As you can see in the drawings there’s just three or four floors that are elevated above the garage and in the early design there were walkways back there. We changed that and it looks better. We now have a similar look on all sides and the east side is also setback from the existing building in the same fashion that the other three faces. At the June 28th meeting the Design Review Committee had us add vertical concrete panels at each of the corners. The reason for that was to introduce a different material than stucco, which is the primary material, and also to emulate the vertical columns in the Capitol Terrace structure. You can see how they are scored. We aren’t going to emulate the different colors, but repeat the scoring as these columns go up. Adding to the mix of materials we’ve elevated the design with a horizontal metal band at the base of the top story. That sets off the crown of the building and a similar band covers the cornice and that’s a change also from stucco. So we introduced a third material. Further we took that split in the building that you can see and this was primarily Andy Erstad, the chairman’s suggestion. It was a great suggestion, let that light go all the way through front to back. It didn’t do that in the original design. It stopped about part way through. In doing so we now have a 25 ft wide opening along the full width, east through west, and in essence we’ve returned the block to its historic roots with a reminder of the alley that once separated the Falk Building from the old City Hall. It’s in precisely that same location. Also at the June 28th meeting the DR Committee asked that the windows be recessed by 2 ½ inches. What that does is improve the
aesthetics and it makes the windows less prominent and it provides additional shadow relief. The color selection, this was a process that really began in December and continued all the way through June. It was a series of submittals. It was a series of reviews, re-submittals and re-reviews until finally at the end of June when we submitted this color pallet that you see here together with stucco samples and metal samples that showed the finish of the stucco and the finish of the metal. It was an exhaustive process. It’s hard to understand in many ways this appeal because the appellants know this process. It was made in steps over months and it was not made in error. It was not arbitrary and it was not capricious. They too were part of the late night meetings in which every aspect of this design was discussed, debated and it was defended. The appellants were there on June 28th when Committee Member Christiansen went through each item of the code as it pertains to the design of Capitol Terrace. He specifically cited how each segment of this design is co-compliant. Perhaps the appellants still don’t like the design after multiple enhancements and that’s obvious. They are entitled to their opinion. But the question of who likes the design here tonight and who doesn’t is not relevant. Again, as a City, we’ve set up a group of professionals to make that decision and they’ve made that decision. It is not subject presumably to my bias. I like the design, naturally. It is not subject to my neighbors’ bias. Likewise they don’t. Fortunately we’ve got a process that eliminates that bias. I’d like to talk about the efforts that we made to try to negotiate a solution. Last January after I became away of my neighbors’ concerns, we met I thought to seek common ground. Instead I arrived to find my neighbors with their attorney in tow. It was not a very neighborly gesture nor was it a productive meeting. I was invited to relocate the project east to the top of the Eastman Garage. What was that about? If the project is on the west side of 8th Street it’s okay but not on east? Since then the record will show an invitation by two neighbors and their attorney to relocate this building. It’s just difficult for me to understand. Since January I’ve talked to several of the neighbors individually because I’ve known many of them for years and I like them. I’ve asked them what can I do. Responses have ranged from this: “Ken, I know nothing about your project. We just signed the petition because the association said we should.” That was one response. I’ve had other responses which were discussions over elevator capacity, over the entry location, over the moving in, moving out. It’s frustrating because I can’t hear from them what the solution is. Recently in an effort to break this log jam, CCDC hired a nationally known mediator. My neighbors refused to meet him. Why? My home is they will reconsider after you deny their appeal. Please don’t disregard the work over months by the Chairman, Andy Erstad, by the other DR Members, by the staff review. Please don’t disregard the many design improvements made on the path to approval. Please trust the decision made by your fellow volunteers and the DR Committee and deny this appeal. It is without merit.

Joanne Butler (Applicant’s Attorney/251 E. Front St./Boise) – For the Planning & Zoning Commission to obviously uphold this appeal you have to first find or show that the DR Committee was in error in some way and then you also have to show that a substantial right of the appellants was prejudice. There was no error in this case and there were no substantial rights prejudiced. We’re not here to judge the design but to judge whether the Design Review Committee, which is made up of experts in their substantive areas to judge whether the Design Review Committee carried out its authority, carried out its responsibilities diligently in following
City Code. The Committee had a wealth of information or substantial evidence before it and it took that evidence and it recited it. It digested it. It masticated it and it underpins the decision of the decisions of the Committee. That very deliberate review by the Committee demonstrates that the Committee’s were neither arbitrary nor capricious. This was no mere whim. Reciting from the Boise City Code: “If the Committee’s actions are to be deemed arbitrary or capricious, it must be shown that its actions were without rational basis or in disregard of the facts and circumstances presented. Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration.” There was no error by the Committee. They did act honestly. They did duly consider everything that was before them over many hours over many nights. Because of that, the Code asks the Commission not to substitute its judgment for that of the Design Review Committee and asks you to defer unless those findings were clearly erroneous. Likewise there was no procedural error. Let’s talk about the two procedural issues that were raised by Mr. Shoemaker here. Evidently on page 27 of 49 in one of the transcripts it indicates there was a break in the tape. That may very well be, but our courts tell us that as long as the transcript gives a fair reading and an understanding of what happened below, that the courts are not going to turn that transcript aside as a procedural error. I think that the Commission understands and has seen that it has a very fair reading of all of the work that the Committee did. With regard to a quorum, evidently at 6:00 there wasn’t a quorum although the minutes would indicate differently. Whether there was a quorum or not really doesn’t matter. The staff and the Committee Members that were there told people: “We’ve got a delay. We’ve got a Committee Member coming in from the airport. We are going to delay for an hour until 7:00.” Adjourning a committee meeting is one of the few legal things that can be done without a quorum. Robert’s Rule of Order specifically says that: “The only action that can legally be taken in the absence of a quorum is to fix a time to which to adjourn.” That’s what the Committee did that night. It was waiting for a quorum just like you do, notice up a hearing for a date certain or a time certain. That’s what happened that night while they waited for one committee member. So there was no procedural error. The example that was given that you showed earlier this evening where you offered somebody the ability, if they couldn’t be at a hearing later, to provide that testimony tonight, you could do that because you had a quorum. You were transacting business. You were taking testimony while you had a quorum in place. That wasn’t available to the Committee that night. All they could legally do was to adjourn and they did so at a time certain and hour later. Even if there was error which I’m certainly not suggesting, you have to ask yourself then was the substantial right of the appellants prejudiced? Many of them showed or maybe all of them showed up at 7:00. Just like tonight where we were scheduled to be heard #6 on the agenda, but we were moved to the end, but people showed up at 6:00. They could have left, but they didn’t. They chose to stay. People stayed there. There were no substantial rights of the appellants abridged or prejudiced. They certainly were able to testify that night. They did and they are certainly here tonight to testify. With no procedural error and with no substantive error on the behalf of the Committee and their due deliberation, there was no error by the Committee and we’re asking you to recognize that tonight and uphold the decision of the Design Review Committee.
Commissioner Fadness – If I remember right from trying to read the packet, I thought I had read somewhere that even though the units increased, the square footage did not. Did I misread that?

Ms. Schafer – I believe the square footage had to increase in order to accommodate the additional units. If that was in the testimony it would have been in error.

Commissioner Fadness – I also have a procedural question about the meeting where the tape broke. Do you recall if the meeting was stopped when the tape broke and then resumed immediately or was there not a realization that the tape broke and the meeting continued anyway?

Cody Riddle – In the record where it indicates the tape is broken, I think it was just some interference in the tape itself. The actual tape never physically broke. As has been previously mentioned, a clear record was transcribed and we’re very comfortable with that.

Commissioner Fadness – So we know we’re not missing any of the meeting and if we are, a very insignificant amount.

Mr. Riddle – That’s correct.

Commissioner Fadness – About the parking, for a downtown project like this what is the minimum parking requirement or is parking required because of the location and the surrounding parking garages?

Ms. Schafer – The project is located in a P-1 Parking Overlay zone which requires no parking for any additional square footage, uses, anything in the downtown area which is why the Design Review Committee cannot require the applicant to provide additional parking. As it is, as part of the project the applicant provided an additional 17 parking stalls. The Ordinance does not require them to do any. It’s supposed to be picked-up by the public parking system.

Commissioner Fadness – Because this project never came before us as a Planning & Zoning Commission as a conditional use, variance, I assume its size complies completely with the zone and that’s why it did not come before this Commission.

Ms. Schafer – The size complies completely with the zone. It’s based on floor area ratio. Residential units are given an added bonus. The height of this project is limited by the easement that is on the property. The 6-story structure fits within the easement on the plat.

Commissioner Brunelle – Regarding page 27 of 49 on the transcript of the May 31st meeting, can staff tell me if in that portion of the hearing where the tape either was not working properly, was there testimony being received from somebody in the public or discussion that affected the decision or played a role in the Design Review Committee’s decision and if there’s any sense of how long of a time period the lapse occurred?
Mr. Riddle – Looking at where there was a break in the tape it appeared that at that time there were some concerns with procedure. They weren’t receiving testimony at that time. It picks back up with the chair specifying that people needed to keep their testimony to 3 minutes. So I would say no substantial testimony was missed at that time.

Commissioner Brunelle – For the legal counsels, I have a question regarding the change in the number of units and square footage while this process was going on. The argument is being furthered by the appellants here that proper notice wasn’t given. Is there anything in Boise’s City Code, when it pertains to a Design Review project, that requires the project to not change substantially or does it require starting over? The reason I ask that is that I know that within the conditional use permit process the Planning & Zoning Commission can deny a project and then there’s a cooling off period before a similar project can be resubmitted, but if there’s a substantial enough change made to that project then they can come back sooner to the Commission. The idea being that it is a different project so you don’t have to have the cooling off period, but it goes through all the proper notice requirements so that the public has the right to be aware of it. Are there any similar sort of requirements within the Boise City Code as far as when something is submitted it has to remain within certain bounds so that it’s still the same project so to speak.

Mary Watson (Boise City Attorney) – Notice obviously implies a meaningful notice to all parties involved of what is going to be heard and what’s going to be discussed. Legal has discussed this specific issue with staff. I was not personally present for any of the Design Review matters or the hearings that you are reviewing tonight, but I am confident that the notice that has been discussed here already and that has been discussed before was adequate in this situation and was appropriate and that this is not a legal issue that should concern the Commission tonight.

Joan Kreizenbeck (199 N. Capitol Blvd./Boise/83702) – Why does the City of Boise write special design districts? Why do we vote on them and approve them and put them in our Code if then the language in those special design districts has not meaning that highest and best architecture and highest and best materials aren’t actually required? Is that the kind of precedent the City wants to set? Do we want to build boxes that have little or no architecture and is this what we should expect for the future or our downtown? I’m a resident of downtown. We’ve lived here for almost 5 years and we were some of those people that pioneered residential living. This project is being constructed next door to the busiest parking garage in the CCDC’s parking system. As has been discussed it’s providing very little parking. The business district, meaning what I call this part of downtown and not the BODO area, has less parking today than it had 2 years ago. It has more commercially developed square footage than it had two years ago. In the near future the Statehouse is going to be expanded. The Boise Tower project is going to come on line and we know of no plans that the City or the CCDC has to expand the parking program in this part of town. Just a hint of history about why we have 35 spaces in the Capitol Terrace Garage, Mark Clegg, the developer of our building, paid for those parking spaces. He wrote a check to the City or CCDC. They were not granted to us. They weren’t gifted to us. We didn’t
get special treatment. Our treatment was so special that today those 35 reserved parking spaces, we each pay $90 a month to CCDC for the privilege of parking there. Today it’s a common occurrence that we arrive home and can’t park in our reserved parking spaces. Any time during the day or during the evening when there are special activities in downtown, when the Legislature is in session, when there’s a hockey game, when there’s a Alive After Five, other people use our parking spaces. We are then off to figure out where we are going to park. I know that it’s a district that doesn’t require parking and I understand that. But if we don’t have adequate parking downtown it affects our property values. It affects how many businesses locate themselves downtown or stay in our downtown. If their employees can’t park, if there visitors can’t park, if there isn’t parking for retail there’s no reason for retail to be in our city.

Daniel Prohaska (P.O. Box 608/Boise/83702) – I want to first talk about the procedural defect of the meeting in which there was not a quorum. In spite of what the attorney for Mr. Howell has said, there was no meeting called to order at 6:00. If there would have been there would be minutes of that. Please read pages 1 and 2. You will see there was no meeting and on page 2 the staff says that they didn’t call a meeting, they didn’t continue the meeting, which they should have done, but rather they just told people to come back later. That is not a proper public notice in my opinion. I also want to address the tape because I was also sitting right next to the tape, Mr. Riddle, the secretary who’s the transcriptionist and Teresa Sobotka. The tape went off. It went off for a period in my opinion of between 5 minutes and 15 minutes. The tape was fiddled with. Mr. Shoemaker actually asked that in the transcript that the tape be checked because there was a problem. We wanted to make sure we did not go through an entire hearing and not have a tape. So, there was testimony given and for a period of time. I can’t tell you how long. I can’t tell who was testifying but I do know they were trying to fiddle with that tape to get it fixed and there was some kind of interference so the tape was not picking up the people that were talking. The record does not support that there was any substantial evidence which is the Zoning Ordinance. It addresses appeals of the Design Review Committee’s decisions, that there was any substantial evidence that the Design Review Committee addressed this issue of mass or density which relates to the form and function of the building. I would, in spite of what the other side has said, point you to page 20 of 32 of the June 28th transcript where Chairman Erstad says: “I struggle with the fact that this project is an allowed project on this piece of ground and we have no control over what is put in this space. We do not have the purview to deny or approve based on use if the use is an allowed use.” So right there they have admitted they did not address the density issue or the mass issue on this particular piece of property. Clearly they went from one Design Review meeting at which we had an 81-unit project to another at which we showed up and that day, at the hearing, we’re told we had a 90-unit project. We objected. We said we’re objecting to the fact that you’ve expanded the scope of this project and it’s improperly noticed.

Robert Vestal (2021 N. Stoneview Pl./Boise/83702) – I am speaking to you both as a physician concerned about environmental health and the health of our environment, and as a citizen of Boise who strongly believes that decisions regarding urban development projects should be made based on the greater good for all citizens of our community. This project directly addresses the urgent need to reduce traffic and air pollution generated by automobile emissions and urban
sprawl in the Boise metropolitan area. It provides infill downtown housing for 90 individuals or families. It is ideally suited for individuals who work downtown allowing them to walk or ride bicycles to their places of work, thus eliminating the need for use of automobiles for commuting. The project serves the greater good of all citizens of our community. Its environmental benefits, namely reducing traffic and air pollution, have been mentioned. It enhances social justice within our community by adding residential housing for moderate to lower income individuals and families, thus adding diversity downtown. From my review of the documents related to this project and the appeal it is clear to me that the applicant has satisfactorily addressed the concerns and recommendations the emerged during the exhaustive arduous and rigorous Design Review process, thus in my opinion the project meets community standards for quality. I strongly urge the members of the Commission to deny the appeal as recommended by the staff report. I further strongly urge the appellants to examine the motives for their appeal and their consciences and to resolve to abstain from any further appeal of this attractive, well designed and highly beneficial project.

Eric Davis (602 Sandstone Ct./Boise) – I own 6,000 ft. of this building on the 3rd floor. Your packet as a couple, 3 letters from me, memos and letters and I’ve given testimony. I’m in Urban Land Institute. I believe in Smart Growth. I believe in downtown housing. I believe that we ought to embrace mixed use, all of the above. Let’s get downtown Boise going, growing and people living in it. It’s what we need. There have been a lot of design changes. I don’t deny that, but I have yet to hear any explanation about function. It’s very convenient to say we’re in a P-1 zone and convenient to say that well the trash will just find its way out the back. I’m a developer and I pay a lot of attention to how things work and I believe and the Urban Land Institute will support the statement where function is just as much a part of design as the color and the windows, etc. After working and living in this building for 6 months, I can tell you that it’s at maximum capacity. This thing is cranking. The deck is jammed with these events that we’ve talked about. The stairwells are just, they try to pour stuff in there to make it smell good but it’s not good. It’s not pretty. The elevators are broken half the time. So we’ve got the spectrum of how to design a project that’s balanced in function and then how are we going to pay for it and the economic realities of this thing have dictated that we keep adding units so we’ve maxed it height wise, probably maxed it from a structural standpoint. I just think that we’ve taken sort of an irresponsible look the other way on how this thing will really work. In three years from now when it’s up, if it does get up, I just want to know that we’ve really studied will people not have cars. How do you know? What are you going to do with some of this stuff? None of the design changes so far have addressed that. I just want to be on the record for that for the sake of our building. The hook is in this density reduction in floor area cannot be specifically shown or required by reason of public safety or diminishing property values. I think that the body had the ability to downsize the number of units based on this criteria.

Joshua Runuds (199 N. Capitol Blvd./#701/Boise/83702) – I want to first address Ken’s comments. When we first came with this project, this looks great. His drawings were horrible. Design Review said this is a multi-million dollar thing and this is what you bring? The reason it has changed so much, there was no plan to shield the roof. The windows weren’t, all the stuff
that’s happened that’s made it even a half-way decent project, it was an after thought to Ken. So I think this playing of all these appeals and it’s horrible, it was a joke when it first came here and I came up to Ken and I asked him about parking. He said that wasn’t something that wasn’t a part of Design Review and he didn’t want to talk about it. I had to push for appeals to even get Ken to talk to us. So why are we so excited about this? This is Capitol Blvd., the center of our district here that’s coming through. We filed lots of appeals talking about basic things. Somehow we get away with using the parking garage as the emergency exit. There’s no stairwell exit here. You have people coming out of one end of the parking garage and one end of the building colliding in one exit that the City owns and that if the City closes then there’s only an elevator to get out of this building. It’s substandard it’s not subsidized. You’ve got a design of a large mass there that keeps changing every time we see it so one time we’re debating an 81-unit apartment, the next it’s a 90-unit apartment. The reason it has taken this long is my first appeal, it was dropped. It went back to Design Review again because we had a different design, not my choice, Ken’s choice not to fight the appeal but to have a different design. Now we again have a different design coming to us but it somehow slips through. The CCDC says fine, use the parking garage, take space, use your emergency exit to the building. Oh, just use the City garage for that. You don’t really have to build one in here. The trash, there was no plan for the trash when he originally had this. Oh, well, it disappears somehow right? Not downtown it doesn’t. So all of these things that we’ve talked about that keep changing, that get out of the public process to the special work shop, it doesn’t make all of the things that we’ve appealed against this project for in the first place go away. Honestly, in the Capitol Blvd. district you have to think about parking, about use because you have an obligation to sustain events, activities and the liveliness of downtown. If you wreck that parking garage with this project which will happen, if you make it a safety hazard, a fire hazard and overcrowded, you’ve violated what Design Review does have purview over and that’s enhancing the activity and the general usability of downtown. The Capitol Blvd. district is special and there’s like 6 pages worth of text on what you have to do there that we had various levels of appeal on. We thought we could still continue to appeal this issue before the group after we went through this process that Mr. Shoemaker spoke to earlier.

Betty Stadler (8097 Spring Creek Way/Boise/83714) – I do not live in the city’s limits. I lived in the city limits growing up. My dad came to Boise in 1909. He was City Attorney. I want to help keep Boise beautiful. That’s why I’m here. I’m here begging you to keep Boise beautiful. If he hadn’t been on his toes we wouldn’t have Julia Davis Park. If the City hadn’t started the park at a certain time, my dad, Charles Everett, found this out, they started Julia Davis Park. Otherwise it would have gone back to the heirs. It’s the same why why Cole School is still there because if it’s not a school it will go back to the heirs. My mother was very influential in starting Music Week in Boise. Boise started Music Week. Now it’s at the beautiful Anne Morrison Theater. When my mother was there we sat on the Capitol steps and they built platforms for the people to come and perform Music Week. My late husband and I and my children have, we’re not in the City’s limits but we have built and operated Shadow Valley Golf Course. I love downtown Boise, I love it. We lived on the corner of 17th and Jefferson, that’s where I grew up. We had the only paved street because the Mayor lived across the street. We
had the only paved block but the kids had a great time. I just can't tell you when the mall was built, my sister and I how we spent our afternoons. She was able to drive so we'd park downtown and we'd watch the people and we'd make up stories about them. When the mall was built and downtown Boise died, then there was a parking garage and there were things that were going on and I used to think I wonder if the parking garage will ever be full. Watch out what you wish for because now you can't find a parking place in the parking garage. It's just, I think as I said before, the city planners had it that Capitol Blvd. was supposed to be absolutely beautiful like Harrison Blvd. and look what happened to it. It's a mess. It was supposed to be so there were no buildings there. All the buildings encroach on our beautiful Capitol Building. If we don't make the right decisions now for our beautiful downtown Boise, we won't be able to say that any more. I agree with the doctor. Everything he said about what we need to do, but the building does not belong in that spot. There are so many other places in Boise where that building could be built.

Larry Hauser (1888 E. Rodeo Ln./Kuna/83634) – I've had the distinct pleasure of being able to be involved in downtown development, construction, leasing, management for more than 16 years. As manager and leasing agent of the Capitol Terrace Building since 1990 and representing the Roper Family, the owners of the Capitol Terrace Building, I would urge you to deny the appeal brought forth by certain owners of the Capitol Plaza Condominiums. On each and every objection brought forth, save one, you think they were describing deficiencies within their own building. Mr. Howell and his design team have met each objection without taking offence and have created some find improvements in design. In previous testimony the appellants' legal counsel indicated he knew more about the owner's original vision than I and that the owner had kind of abandoned the project. Mr. Roper is in attendance this evening and you may want to hear it from the horse's mouth, but I can assure you that as long as I've been associated with the Roper family, the vertical expansion has always been the desire of Jim Roper. The size and scope are articulated well within the original DDA constructed by Mr. Roper and CCDC, actual pioneers of the downtown development. The discouraging objection the appellants have indicated under their breath, and it doesn't come from just the appellants, I hear it on the streets, even some of our own tenants, is they do not want these kind of people, meaning the proposed occupants of the apartments, living on their block or shopping in their stores. These appellants should be chastised for social economic discrimination. There's not a lot a developer can do to change the minds of bigots. The appellants are okay with these kinds of people serving their meals, cleaning their homes, teaching their children, but don't let them live on the same block. Perhaps we should only allow renters to live on the outskirts of town and commute in to take care of our needs, compounding our parking and air quality problems. Heaven forbid renters be allowed to park their automobiles next to any of ours in the building. Tenants should probably be restricted to only public transportation. Downtown Boise needs diverse housing. The tenants of this building will spend their disposal income on the streets of Boise rather than whatever city or country they happen to be in this week. They will be active in operations of their environment and surroundings. Please deny the appeal and let's get this long delayed project underway.
Commissioner Fadness – Ladies and gentlemen, I would just caution you that there are good
people on both sides of this issue and won’t tolerate the use of terms like bigots in this
discussion.

John Fery (199 N. Capitol Blvd./Boise) – From my unit I cannot see the proposed building so it
is not something that I will have to live with were it to be built. I agree strongly with all of the
comments that have been made about the procedural problems that this appeal has had
throughout this project since the beginning. I hope you studied those closely. I also agree with
one of our speakers what that you see here today is 200% better than what we were confronted
with many months ago. It started out as a box and today it has some sex appeal. But it still is
what it is today, a subsidized apartment house. Let me speak to how I feel about those things.
My wife and I came here 50 years ago. I was very involved in the urban renewal process. I
personally hired a fellow out of New York, an urban renewal expert, to tell us what this town
needed in urban renewal. The one thing he said which I’ll never forget is you must have people
living downtown of all economic classes, high and low. My wife and I, to my knowledge, were
the first people to move downtown. We were the first people in that building 11 years ago. I
believe in living downtown. I also believe that we must have all economic classes represented
here. But I also believe that this immediate area is the core of our city. If I have a lot of money
or no money, I can live two or three or four blocks from here. Mr. Howell has been very
successful in putting together two subsidized housing units, which are doing fine to my
knowledge. They are not right at the core of the city. This is what you are going to see when
you come to this town to visit as you now see the BODO building. I think the BODO project is
marvelous but that hotel should never have been approved by some city agency and it was. It’s a
big brown box and it’s our welcome to our city. You people who have volunteered your time,
you’ve got a tremendous responsibility to make sure that the last few remaining places we have
downtown to affect the appearance of our downtown is done right. I think there have been
mistakes made. Mr. Roper is a friend of mine. Mr. Erstad’s a friend of mine and I have respect
for Mr. Howell. But I have more love and respect for this city. Let’s make it right.

Ralph Kreizenbeck (199 N. Capitol Blvd./Boise/83702) – I’m quite concerned about the impact
of the parking. CCDC did a downtown housing study and it said what do we need downtown. It
said we had plenty of high end, we have plenty of low end, we need the middle class and what
those people want is they want to buy and they need two parking spaces apiece. That’s in their
study. That means the 17 spaces should be 180. It’s going to impact us. The only reason we are
really appealing this thing is we do want the quality. We want all the quality that everybody
said. We think it’s a bad design not because it looks bad, but it doesn’t have a lobby. It doesn’t
have loading and unloading areas. We’re still not sure if it’s taken the garbage into effect. Mr.
Roper, I’m sure, whom I know and have great respect for, he owns the downstairs of that
building. Why isn’t there a lobby out to the street? Why isn’t there a loading zone? Why
doesn’t it function like an apartment building really should?

Alexa Howell (1925 Montclair Dr./Boise/83702) – I think Ken and Joanne expertly identified the
procedural questions with the Design Review decision and it’s my understanding that the Design
Review's decision is in question, not the technicalities of what they decided. I'd like to address something Mr. Shoemaker said, the phrase: "Those most impacted by this project." In my mind the people most impacted number far greater than the two or three rows of people sitting here. They number in the hundreds and the thousands of Boise's citizens who will be the afforded the opportunity to live downtown. Several people commented that Mark Clegg was the first to bring housing to downtown Boise, but I believe it was Ken Howell with the project of the Idaho Building which is also in the downtown core. Many of the people who have lived in the Idaho Building now own their own homes and as one woman said in a Fettuccini Forum on neighborhoods last spring, renters are homebuyers in training. The more respect we give to them the more respect they will have for their living space. The Washington Mutual Condominium owners and the Capitol Terrace Apartment owners share a piece of land. Ideally they will share it peacefully. This is not the case right now. Ideally a representative of the Washington Mutual Condominium owners would meet with the developer on all stages of the project before and after completion, meet with them in harmony. I am hoping that the Planning & Zoning Commission will provide a cease fire by denying this appeal. By denying this appeal they will uphold the integrity of this city's processes. Ken Howell and Jim Roper have been pioneers in the rebirth and revitalization of Boise's downtown. They have helped turn Boise from a place considered north of nowhere to a desired destination. Please deny this appeal and let them continue to contribute to the health and vitality of our community.

Commissioner Fadness - I will now open up the testimony to anyone who was not on the sign-up sheet and who provided previous oral or written testimony on this application.

Marie Strickland-Holmberg (199 N. Capitol Blvd./#706/Boise/83702) - I loot at this building. I look at the roof actually and I see cars parked there. I see a full parking garage. On Saturdays there's an open air market. There's Alive After Five. We've got the movie theaters, parades, car shows and it's a really fun downtown. I think Boise City has a vibrant community where the families come in and they see the parades and they have the trucks with the water hoses. There's room for them to park there but if you have 91 units, you have 2 parking spaces or you have somebody living there and their boyfriend or their girlfriend or their mother or their father who comes over and it will be used as a private parking space or private parking garage. We need that for everybody not just Mr. Howell's 91-units that are going to need at least 180 parking spots. To think that people don't have cars is kind of silly. Reducing traffic, I don't see how the doctor's suggestion of reducing traffic would help to put more living quarters downtown. Moving in and out will be crazy. Saturdays when people move their belongings, usually on the weekends when they are not doing their jobs, they are going to get in the way of the open air market and parades. It's a modified box. It's like a bunch of shoe boxes at different levels as far as I'm concerned. Mr. Howell says we don't participate in the harmonious meetings. When we come to the design thing to look at the materials, we get less. We're trying to participate and we ask for better windows and we get more units, so our participation has been met with he's got to make a certain amount of money and I understand him as a businessman. He's got to do that, but if he gives one thing he takes away on another and I don't think it's been harmonious or productive for us. Planning and development, you're supposed to plan the city and if you look at
Boise you have to look at the cars. I mean these people that want to live there, they will want to have cars someday. They want to have a boyfriend with a car or girlfriend with a car. I look at cars parked on the roof. It gets busy. They have one internal elevator so they will be using the parking garage to move in and out. I think that this is the wrong place. I have no problem with renters. I think they are fabulous. I was one. But this isn’t the place for it. Cut it in half and had parking spaces for everybody it might work, but as it is it doesn’t work.

Todd Shallat (280 N. 8th St./#605/Boise/83702) – I’m your neighbor believe it or not. I thought I would give you guys a look at what these scummy tenants are going to look like because I’m one of them. I’m the person most impacted because I’m going to live in the building. I was at the meeting where the tape was supposed to have broken. It didn’t actually break. What happened is the mic didn’t pick up the sound from all the angles and so what happened when the transcriptionist couldn’t hear the transcriber she stopped the proceedings and had people move around. That’s really what happened. I’m one of these people that doesn’t drive. I work at Boise State. I’m just a history professor so I don’t make a lot of money, but I just walk to Boise State. It takes me 15 minutes. I don’t drive and I’m going to live in the building. If you guys have problems with your building then I suggest you move over to the new building because I live in a Parklane building right now, the Idaho Building and the trash gets taken out. It works really well. They don’t have any problems. I’m sorry there’s not enough space for you to park or whatever, so sell the condominium and move over to the Capitol Terrace Building. It will be nice.

Scott Simplot (999 Main St./Boise/83702) – I did send an e-mail in. It’s difficult for the people that are speaking in opposition to this. A lot of them have been people that I’ve admired all my life. It’s in the spirit of trying to move Boise forward that I’m standing here. I think it would be a real mistake to turn this project down and at the same time have BODO approved. It doesn’t seem consistent. This project has a lot more architectural appeal. I think it would be a mistake to turn this project down and have approved the Grove Hotel and I happen to own some of the Grove Hotel. This project has a lot more change in planes, a lot more interesting roof line. The shadow faces as the light comes across this building will be a lot more interesting than we’ve got on the Grove Hotel. I think it would be a mistake to deny this building and have approved the Bank of America Building on Capitol for much the same reasons. It doesn’t seem to me that the Design Review Committee has made an error here. For how hard it is for Ken to keep being involved in the public process, at some point Boise need to stand up and say look enough is enough. This is a good project here and it needs to be approved. You can’t keep dragging this thing out for a year.

Commissioner Brunelle – The only question I have is the one I laid out earlier for the attorneys if they want to comment on it.

Commissioner Fadness – Not being that familiar with the proposal the issue of the elevator, apparently it’s only the elevator in the parking garage that’s the only elevator in the facility and also the arrangements for trash pick-up, could staff edify me on those items?
Ms. Schafer – The numbers of elevators and the exiting requirements for the building are not something that the Design Review Committee would review. That is something that is under the purview of the Building Department. They would make sure that all exiting requirements are met per the International Building Code. That would be under their purview, not the Design Review Committee’s purview. I do believe there are 2 elevators within the development however for the project. Trash pick-up, there is a memorandum in the packet dated February 16, 2006 from Catherine Chertudi of the Boise City Public Works Department which states they have been working with the applicant regarding the trash pick-up for the project and based upon their discussions with Mark Sanders and Rod ???, they believe the compactor that will use the 3-yard containers is appropriate for the project. Trash service has been worked out through the Boise City Public Works Department on behalf of BFI for removal of trash at this location.

Commissioner Fadness – Back to the elevators, is it already past the point with the submitted plans that we know it’s met the requirements of building code or is that yet to come in the process?

Ms. Schafer – That’s yet to be discussed with the Building Department.

Commissioner Fadness – Is part of the task of the Design Review Committee’s density and mass or is that more Planning & Zoning function?

Ms. Schafer – Density is more a function of the Planning & Zoning Commission. The Design Review Committee can look at the massing of the building as far as stepping of the facades, but they are not allowed to require the reduction in the floor area ratio or the number of units. The height is allowed in the district by the Zoning Ordinance.

Commissioner Fadness – So when addressing mass it would be like the example of the middle corridor or the breaks in the building, the roofline, the window setback, etc.?

Ms. Schafer – Correct. Stepping of the façade to allow for the balconies, placement of the windows within the wall planes, those types of issues are what the Design Review Committee would look at and has the authority to review.

Commissioner Orman – An easement was mentioned that would restrict the height of the building. Could you elaborate on that?

Ms. Schafer – There is a condo plat that discusses the air right easements on top of the Capitol Terrace structure. There is an 80 ft. air right easement over the existing structure, therefore when the project was placed in to a condo plat there was forethought in that there would be additional structure on top of what’s existing.
Commissioner Fadness – For the meeting on June 28th hearing that was delayed from 6:00 to 7:00, was the meeting called to order at 6:00 or did they just decide since there was no quorum present they weren’t going to start?

Mr. Riddle – The meeting wasn’t called to order until 7:00. I was present from 5:00 until the actual hearing began at 7:00 along with Legal Staff notifying everyone that showed up that the meeting would begin at 7:00 when we had a quorum available.

Commissioner Fadness – Since we don’t have a written record then of what was said at 6:00, did Chairman Erstad inform the public that if they did have to leave that they could submit written comment?

Mr. Riddle – The dialog that occurred at that time was between myself and Legal, Teresa Sobotka, and members of the public. Chairman Erstad made no statement regarding submitting written testimony.

Ms. Schafer – Staff would remind you that this is an appeal and we are looking at the project as far as the Design Review Committee acting in error. Within our packet on page 8 are the items that we can find for a quasi-judicial appeals, including grounds for error may be stated as violation of constitutional state or city law, the review body’s decision exceed its statutory authority, the decision was made upon unlawful procedure or the decision was arbitrary or capricious or an abuse of discretion. Much of the testimony tonight wasn’t in regard to the actual appeal. They discussed parking. Parking was not under the purview of the Design Review Committee. The project is located within a P-1 Parking Overlay District which required no additional parking. Secondly, noticing of all the hearings and work sessions, there were postings placed on-site. There were radius notices sent to all of the adjoining properties and properties within 300 ft. The notices after the initial public hearing all stated that the notice was for a 6-story residential development on top of the existing structure giving no indication as to the number of units. The applicant spoke to the Design Review Committee being able to change the massing, the floor area ratios if it diminishes property values. At no point in the testimony of all of the public hearings was there any information submitted disclosing that there would be any property values that would be affected by this project. The lobby design, interior design is not something that the Design Review Committee has purview over, similar to the exiting requirements of the building, loading and unloading areas which were discussed but obviously not part of the appeal. It is also under the purview of the building manager, not under the purview of the Design Review Committee.

Joann Butler (Applicant’s Attorney) – We have a lot of people here that seem to be concerned about parking issues and there’s a lot of interest and energy. I think the Commission knows that the place to modify the Zoning Ordinance with regard to parking, if that’s truly a concern, might be to form a committee and work with this Commission and the Planning Department to look into that issue. If that’s how people feel, I think there is a more proper and beneficial place to do that after this is over. With regard to notice, I think we had notice from April that the appellants
had asked for a change to the east façade and if you’d like I can answer that question. I wouldn’t want to take time out from Mr. Howell’s time. Mass and the district design elements, I just would like to turn the Commission to the statements by the Committee at the last hearing where they specifically went through the massing requirements and discussed it and addressed it and also where they took apart each of the Capitol District Design Elements and addressed those as well. The issue obviously is not the location of the building that folks have raised tonight. It’s was the Committee in error in any way in applying their Design Review Guidelines.

Ken Howell (Applicant) – Parking was discussed at great length tonight. I know a lot about the demand for parking for this kind of project. I’ve got two others in town. The parking that I have planned here is adequate for this project. It isn’t 17 spaces as the appellants’ attorney would suggest. It is more like double that. I don’t want to get off track because as Ms. Butler said that is not a Design Review consideration. Andy Erstad, the Chairman, was very good. Every time that issue was brought up he kept saying it’s not a Design Review issue. In terms of Ralph Kreizenbeck’s testimony, we have actually worked out virtually all of these things, the garbage, the moving in and out, elevator capacity. We’re putting in a new elevator. That’s the second one in this structure. The easement questions have been answered by staff. I would just say again this has been a long process. I submitted this application in November of last year. Here we are deciding. Design Review has spent a great amount of time, 3 of your fellow commissioners participated in that and there were no arbitrary decisions, capricious decisions, this was thought out. This design has been changed in steps over time and with each step the neighbors have had an opportunity to contribute and they’ve been listened to and we’ve made changes because of that. I would appreciate you denying this appeal and I hope following that the neighbors and I can really sit down and have a dialogue. I’d like to do that.

Mr. Shoemaker – Let me correct one of Mr. Howell’s prior statements that I’m sure that he would not have intentionally misled the Commission, but it’s a fact that may be not relevant to tonight’s proceedings. He asserted that we, my clients were unwilling to participate in the mediation process and that’s not correct. Mr. Aldred was here earlier and I can tell you that I’ve written to the CCDC, which is sponsoring the proposed mediation process, and stated that we would participate in the mediation and this is the sense there’s two venues here of course this venue tonight on the City’s side and then the CCDC which has some contractual rights and air rights. So in any event we said yes, we would participate in the mediation provided: (1) a traffic feasibility or parking feasibility study be undertaken for the garage; and (2) that a feasibility study be undertaken for this particular project at this location. We’re convinced that those two pieces of fact will either bring the sides together perhaps as we think alter the size of this project, downsize it from 90 units, if not perhaps locate it elsewhere. With those facts we are happy to participate in a mediation process. I want to respond to Commissioner Brunelle’s questions about procedure and the I think the chairman also had a couple of questions. Again, I think the proof is in the pudding on the quorum issue first. You heard Mr. Prohaska speak. They didn’t comply with even Ms. Butler’s report from Robert’s Rules of Order of what would have been appropriate procedure, i.e. called the meeting to order. That was not done. The staff allegedly told people what to do, but we really don’t have a record to know that and that’s the real problem.
and that’s the procedural defect is the inadequate record. Now on the broken tape, again I was there and as Mr. Prohaska testified I was the one who saw the, I was sitting closer to the tape than I am to you Chairman Fadness and I saw that it wasn’t working, it wasn’t going around and I said to Ms. Sobotka who was seated just to my left: “There’s a problem with the tape.” I can’t tell you how long the tape wasn’t working and I won’t tell you that, but it wasn’t working and I don’t know what we missed in that testimony. Now more importantly the procedural defect which in my 32 years of practicing law and a lot of it before bodies like you. I’ve never seen a project change or morph in mid-stream like this one has done or proposes to do from and it’s a material change and it’s clear I say without equivocation from 64,938 sq. ft. to 73,995. I’m still incredulous that staff is not counseled the Design Review Committee that they need to start over. I’m incredulous and I said so and I just want to quote briefly page 19 of 49. I am almost incredulous that this hasn’t been mentioned, that somehow this redesign of the building increased the number of units from 81 to 90. I also question whether even though the Design Review isn’t necessarily the number of units, if we don’t now have a different application before you requiring a restart on the process. I make mention of that because Ms. Butler has suggested in her papers that we didn’t preserve or somehow waive our objection. I was very clear that evening of May 31st that we were, again as I said, incredulous or almost incredulous that we had a whole different project. So we had a different project that was approved in April from the project that was considered in May and June and that is before you tonight from 81 to 90 units. Staff again I think, I’m horribly disappointed in staff’s comment that we have to show some arbitrary and capricious element. We’re not suggesting that anyone has acted arbitrarily and capriciously. We are suggesting and I am convinced that the decision below is not supported by substantial evidence. There is not substantial evidence that this project meets the highest standards under the Capitol Design Review and more importantly there was no evidence, no evidence whatsoever because again staff has had blinders on about how design is somehow just colors and pallets and facades. It is functionality. They just don’t get that. I’m hoping that that three of you, with all respect, will get it and appreciate that as our ordinance mandates. Design does require a taking into account relationships. It is also inaccurate to say, as staff did tonight, that we have not consistently addressed diminution and value. That’s why my clients are here and have been here every night is because they see the value of their units going down. Why? Because of this project poaches the public infrastructure. This is public infrastructure that they paid indirectly through their predecessor $495,000 for and I think its fair to ask the city body, the Design Review Committee or you, to take into account those physical relationships for good dollars and reasons.

COMMISSIONER BRUNELLE MOVED TO DENY THE APPEAL ON DRH05-0387.

COMMISSIONER ORMAN SECONDED THE MOTION.

Commissioner Brunelle – Several issues were brought up tonight and I really appreciate people staying and providing their testimony. There’s a lot of you here too that as well who came to listen who may or may not have participated in previous Design Review Committee meetings. This is obviously a very complicated case and there is both procedural and substantive elements
to it that I want to address and lay out my reasoning for this. First on the procedural questions, any time you have something this long and drawn out you’re going to have mistakes. Things are going to happen whether it’s problems with the taping system that help facilitate the taking of minutes but are not the end all of making a record. From what I heard tonight there’s obviously a dispute over maybe something was missing, maybe not. But I’m persuaded that that incident doesn’t really arise to the level that would sustain an appeal for a couple of reasons, one is there’s dispute on the record. We heard from Cody Riddle, we heard from Mr. Prohaska differing opinions on whether something ended up missing or not. With the dispute in that situation I just don’t see the ability to find that a technical problem of that nature would lead to sustaining the appeal. Second is this question of the project itself changing over time. What we had here was something that was introduced several months ago and went through several hearings. After hearing the testimony I would think that after that many hearings I would hope something would change and change substantially otherwise the process doesn’t work. In my day job I’m a Federal employee of the largest landowning agency in this State, the U.S. Forest Service. We do a lot of things working with the public and a lot of the things that we do that affect the natural and the human environment require a lot of public interaction. We have what we call Environmental Impact Statements. They are a draft. We put them out as a draft for public comments and based on those comments we make changes and put out a final. Then we end up making a decision. Oftentimes we end up getting dragged into court on some of those decisions, but the important thing is that there is an administrative procedure and process that allows the public to have an affect on the process. Actually for the first time in many of the things that’s come before the City is something that’s been much more similar to what we do at the Federal level which is you make adjustments based on the input. I think there’s a real paradox in making the argument that while a change and therefore we should have started over. I just have to go with procedurally that the changes actually show the strength of the process and not a weakness. On the question of a quorum, I would be really concerned if the meeting was noticed at 6:00 and it was started at 5:00 but it was the other way around. It was noticed for 6:00 and it started late. It’s the functional equivalent of a rain delay. We all know what a rain delay is in baseball, you wait around. The staff testified that they let people know when they came in. I’m sure they could have done a better job. They could have started the meeting and then I guess tabled or rested for the time period until they had the quorum. But again I didn’t hear any testimony about anybody who came at 6:00 and left not know that the meeting ended up starting at 7:00. Again, this was not the last meeting so there was opportunity for people to come back for the last meeting in June. Finally on the substantive claim, I think what this comes down to is the Design Review compliance, specifically with Section 11-7-09.5E and how the Design Review Committee applied points 1, 2, 4 and 5 and this question of highest standards of architecture. Mr. Shoemaker I think made some excellent points about that as to whether this project meets the highest standards of architecture. After reading through the materials and hearing the testimony tonight, I’m making the conclusion that the City Code and that phrase is actually met by the application of points 1, 2, 4 and 5. The term ‘highest standards of architecture’ in my mind is not some reference to a separate code of got to use the best materials or the best type of design or the most expensive architect in town. It’s not specific to certain elements. The term ‘highest standards of architecture’ I think was properly followed by Design
Review by following those points 1, 2, 4 and 5. I think that Design Review also made the proper findings on the building mass and issues of the building mass in this area. It’s in the record and I also did a proper job in mitigating the impacts of that mass through the numerous design changes that were shown to us tonight through the illustrations as well as what is on the record.

Commissioner Fadness – I think one of the most persuasive arguments that I tonight came from the applicant’s counsel on what our task as a Planning & Zoning Commission is and what the task of Design Review is. You’ll note that Design Review, for the most part, is chock full of architects and people who know about all of that stuff. We’re planners and we try to look at the big picture. Design Review looks at more of the specifics and the detail. I think that Design Review, when you look at the highest standard, is largely a judgment call. I’m guessing that if they wanted to do more and make it look even better that would probably raise the price and defeat the purpose of trying to get some affordable housing downtown. I’m also guessing that maybe one of the reasons that the units were added was to meet some of the Design Review’s requirements for a better looking building than a box. I do think that Chairman Erstad could have handled the meeting better but I don’t think he was in error arbitrary or capricious because I would hate to be called upon for every mistake I made. I think what you have to look at is the overall approach. Did everyone get a fair opportunity? Was there due process? Was there a process for spoken and written comment? I think the appellants certainly had the opportunity to get their arguments in and got them in very ably tonight. Ultimately our decision isn’t to design projects, but our decision is to look at is does the project meeting the Zoning Code, does it meet the intent of the Comprehensive Plan, is it compatible, does it fit in with surrounding uses? Then our chief job tonight is to look whether the Design Review Committee, in their actions, made errors or were arbitrary or capricious. Those are the things we have to look at in making these decisions. We are not up here designing projects in detail. I hope people will keep that in mind. A woman made a very good point about increased traffic at that point. She said that this project will increase traffic and maybe at that point it will. But in my opinion it will decrease traffic because what we are trying to do with infill is stop urban sprawl and building more highways and getting people driving further into work and activities downtown. I think if you look at the big picture overall we’re looking at a traffic reduction instead of traffic increase. I hear the argument about property values. We hear that a lot. You put this in and our property values are going to go down. I guess I would like to see someone bring in an appraisal and show me where any of the projects that we’ve approved have brought down property values. I don’t see property values going down anywhere. That argument is a hard one for me to accept.

MOTION TO DENY THE APPEAL CARRIED UNANIMOUSLY.

Approved:

[Signature]

Gene Fadness, Chairman
Planning & Zoning Commission
Date: ________________________
Planning & Zoning Commission

Hearing Minutes of
September 11, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Brian Ellsworth, Doug Russell, Amber Van Ocker, Tony Orman & Tony Blahd.

Staff Members Present
Susan Riggs, Scott Spjute, Vicki Van Vliet & Steve Rutherford (Legal).

Withdrawn
CHF06-00033/Boise/Gowen 93, LLC.

Deferrals

CUP06-00072, CVA06-00032 & CFH06-00037/Capital Investors, LLC. – COMMISSIONER WILSON MOVED TO DEFER TO OCTOBER 2, 2006. COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00043/Lytle Signs – COMMISSIONER COOPER MOVED TO DEFER TO OCTOBER 2, 2006. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00037/Boise/Gowen 93, LLC. & SUB06-00061/Distribution Center Subdivision – COMMISSIONER WILSON MOVED TO DEFER TO OCTOBER 2, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00048/City of Boise – COMMISSIONER COOPER MOVED TO DEFER TO OCTOBER 9, 2006. COMMISSION WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CFH06-00035 & CFH06-00036/Boise City Public Works Dept.
LOCATION: Adjacent to the Greenbelt north of the Boise River from 9th Street to Ash Street.

REQUEST FOR A BOISE RIVER SYSTEM & FLOODPLAIN PERMIT TO INSTALL 1,500 LINEAR FT. OF GEOTHERMAL PIPE.

CUP04-00073(Mod #2)/DBSI Development Services, LLC.
Location: 7510 W. State Street
MODIFY CONDITIONAL USE PERMIT TO REVISE THE DETAILED APPROVAL BY ADDING SQUARE FOOTAGE AND A DRIVE-THRU TO BUILDING 1A, REMOVE THE NORTHERN MULTI-FAMILY PARCEL FROM THE PROJECT, REVISE THE PHASING PLAN AND OTHER MINOR BUILDING MODIFICATIONS LOCATED IN A C-4D/DA ZONE.

CUP06-00065/Ernest Health, Inc.
Location: 6651 W. Franklin Rd.
CONSTRUCT A 48,176 SQ. FT. HOSPITAL AS PART OF A USE EXCEPTION PER CUP02-71 LOCATED IN AN R-2D ZONE.

SUB06-00063/Elisa Street Condominiums
Location: On the east side of S. Maple Grove north of Victory 31-LOT INDUSTRIAL SUBDIVISION.

SUB06-00064/Herar Estates Subdivision
Location: On the north side of Boise Ave. east of Old Oak Ave. and north of the new York Canal.
7-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00066/Sheffield Flex-Space Condominiums
Location: On the east side of S. Featherly north of Victory.

ON THE CONSENT AGENDA, COMMISSIONER ELLSWORTH MOVED TO APPROVE AND RECOMMEND APPROVAL TO THE COUNCIL ON THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED WITH COMMISSIONERS ELLSWORTH AND RUSSELL ABSTAINING FROM CUP04-74 DUE TO CONFLICTS OF INTEREST.

Regular Agenda

CAR06-00039/Studio L Architecture
Location: 1399 S. Cloverdale Rd.
REZONE 2.74 ACRES FROM R-1A TO R-1B.

SUB06-68/Madera Creek Subdivision
Location: On the northwest corner of S. Cloverdale and the Ridenbaugh Canal
15-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

CUP06-00068/Studio L. Architecture
Location: 1399 S. Cloverdale Road
PUD FOR 12 RESIDENTIAL UNITS ON 2.74 ACRES IN A PROPOSED R-1B ZONE.
APPLICATION INCLUDES VARIANCES FOR THE SIDE YARD SETBACKS.

Susan Riggs presented the staff report with a recommendation of approval with conditions 5 and 9 being modified to read:

5. The applicant shall construct a 6 ft. high vinyl fence along the perimeter of the property.

9. The 2-story homes on the north side of the property shall be limited to Lots 10 and 14. All other homes on the north side of the property shall be single story.

Brad LeBree (Applicant/619 E. Curling Dr./Boise) – Concurred with the staff report. After meeting with the neighbors the fence was an issue, but we agreed to a cedar fence. I would be willing to do another comparable fence in that same price range. Concrete block is just too cost prohibitive. We can include that in the CC&R’s that the fence be maintained by the homeowners’ association, however there’s also the issue of maintaining the other side of the fence which would require getting into the neighbors’ back yards to do so. They would maintain that side or have their own fence.

Commissioner Brunelle – There are three different house plans that have been submitted. It would appear to me that Plan A is the only one that has a 2nd story to it.

Mr. LeBree – That’s correct.

Commissioner Brunelle – I question the number of units that would have rear windows that would look out to the south.

Mr. LeBree – I believe we have three of those units along the south and all with only a single window facing that side out of a bedroom. I know that was a concern of the neighbors, 2-story houses looking into their back yards. What we tried to do was built that second story into the roof framing to keep it low. One of the other things that we’d be willing to do is some high windows out on that side to prevent that from being an issue.

L. Robert Darr (12317 Castlewood Dr./Boise/83709) – We are adjacent property owners to this proposed subdivision. One of the things we’re concerned with is what we’re giving away as
estate owners, which is what R-1A is actually listed as. This whole subdivision borders on estate property all the way around and was originally zoned as R-1A. I’m going to challenge the R-1B zone being compatible with existing family homes, the statement under summary where it says “and surrounding neighborhood.” The surrounding neighborhood is not R-1B zoning. It is across Cloverdale and clear on the other side. While not a big issue, it’s a giveaway. The second item we’re concerned about was the lack of input from the Ada County Highway District because their only concern with the impact the traffic will make on the roadway down there. From Overland to the Interstate there are 6 subdivisions, one of which has 2 additional subs added onto it. There are no crosswalks, no lights, nothing for children to cross that street. Crossing that street becomes quite exciting because right now it’s being used as a motorcycle raceway. What we’re giving up here is 12-family residential lots on 2.73 acres where it was really zoned for approximately less than half that. As far as the 2-story house consideration, from this developer, we met back on the 13th of July. It was indicated there would only be one 2-story house on the north side of that subdivision. It would back up to another house that is 2-stories. That, and there were going to be 2 facing the canal. That has now changed to 5. We’re concerned about these changes being made without us being notified about it. It’s a portent of things to come. The issue of the fence is another issue and that is we just came out of a subdivision, my wife and I. The subdivision was less than 6 years old. The fence was a shambles and it had CC&R’s that actually protected the maintenance of that fence. We’ve checked several other developments including a couple of developments that they recommended we go look at and how beautiful they were and already they were showing signs of wear, tear and neglect. We’re giving up zoning. We’re giving up so-called conditions of maintaining density and infill as opposed to urban sprawl. Even though the city planners recommend this down there, we as property owners are giving up everything we had including our horses in the back, which are not ours, but they were fun to watch, and we’ve given up the quail and we’re going to give up the ducks that land out in the field and the geese that land out in the field down there. It’s give, give, give. What do we get in return? They’ve addressed the fence issue. My wife and I have addressed the fence issue and the neighbors across the way who I speak for also have addressed the issue and we all agreed that in exchange for us giving up and not fighting or contesting this particular rezone, that we would like to go ahead and have two guarantees: #1 a decent vinyl fence back there; and #2 is we don’t want this thing to change into an individual contractor type situation because once it has been zoned R-1B, if that does not fly, that zoning will stay and if that zoning stays you can start putting duplexes in there and everything else because R-1B will allow it.

Nalani Darr (12317 Castlewood Dr./Boise/83709) – I concur with what my husband said. On the vinyl fence, I would like to see a solid vinyl fence. When you come down to the main expense, it may be a little more expense now but in the long run I feel that it would be a lot more economical for that vinyl fence in the long run with little or no maintenance.

Bruce Ammerman (12223 W. Castlewood/Boise/83709) – I was the one who wanted the block fence, but I know it’s expense. I haven’t talked to these people about possibly splitting the cost, but if the other neighbors want vinyl, I’m not against that. I’d hate to see cedar. I already have
cedar. I think the vinyl would be much nicer. The other issue is that no one has said anything about the irrigation water. The irrigation water runs through both sides of my property facing the east and west. No one has really talked about that issue, how they are going to get irrigation water. Scott pretty much hit on the items I agree with what he is saying.

Ms. Riggs – Based on the concern over the 2-story homes, you may want to add a condition of approval limiting 2-story homes on specific lots as indicated on the site plan to assure that the project isn’t sold to someone that comes in and puts 2-story homes on every single lot. They will have to come in for a building permit and as part of that permit, if the elevations are different from the 3 plan types that they’ve shown to us, they would have to come back to the Commission, but as a safeguard if the Commission felt like limiting the height to those A-homes as identified on the site plan.

Commissioner Fadness – So you aren’t proposing a reduction in the 2-story homes just a condition that would prohibit future 2-story.

Ms. Riggs – I believe there are five 2-story homes identified on five different lots. There’s product type A and that is the maximum they’d be allowed and on those specific lots. It’s just a suggestion I’m throwing out there for you.

Commissioner Fadness – In relation to that we heard one of the folks testify that apparently at the original neighborhood meeting there was only one 2-story home and the plan has since changed?

Ms. Riggs – That is my understanding but I have not talked to the applicant about that.

Commissioner Brunelle – Could you address the comments regarding the change in the zoning and the question about duplexes being allowed?

Ms. Riggs – A duplex is not an outright allowed use. They would need to come in for an approval for a duplex, administrative approval. That could also be done in the R-1A zone. Again if they are to come back and do a duplex here it would be modifying the site plan, the elevations and they would have to come back to you to modify the CU. Because it is a planned development they would have to do the duplex as a part of the planned unit development so they can’t just get an approval for 12 single family homes as part of the PUD and decide to change one at their whim to a duplex. They have to come back, modify the PUD, public hearing and in front of the Commission.

Commissioner Brunelle – A modification would require a public hearing process, not necessarily just a building permit?

Ms. Riggs – That’s correct.
Mr. LeBree – We would be okay in providing a vinyl fence in lieu of a cedar fence if we have a consensus from the neighbors. The issue with the 2-story homes, when we initially met with the neighbors, we were actually trying to maintain single stories on all of the lots. We initially said that we were going to have one on that corner potentially along the canal. Nobody seemed to really care about the canal. What was facing that way was just the north side. We did change and put through a modification to our submittal which had the additional 2-story on the north side and someone from my office walked around, went to each of the neighbors’ homes around the perimeter and left a new packet of information and if they were home, tried to speak to them. As far as the irrigation issue, as we stated in the initial neighborhood meeting, when we get under civil design pending approval of the preliminary plat, we will address all the irrigation to and from the site as we need to.

Commissioner Fadness – What is your reaction to the suggestion of limiting the 2-story houses to the current number?

Mr. LeBree – I don’t have an objection to that. We’ve already looked at the overall marketability of this and we put it together the way we did because we feel that is the mix that it needs to have. I don’t have an objection to limiting to what we have showing on the site plan.

COMMISSIONER BRUNELLE MOVED TO APPROVE CAR06-39. COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Brunelle – The land in question is bordered to the north and west by R-1A zoned property. To the east however it is R-1B which is what the applicant is asking for so it would be matching up with the properties to the east. To the south there is commercial zoning on the other side of the Ridenbaugh Canal. I like the way that this would transition from R-1B into R-1A so I’m comfortable with the compatibility and the match-up of the zoning request. There was a question brought up in the testimony regarding the concerns about duplex and I think we can address that in part with the approval in the planned unit development. The same rules apply in an R-1A as they would in an R-1B as far as allowing duplexes so it really doesn’t change the ground rules.

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

COMMISSIONER BRUNELLE MOVED TO APPROVE CUP06-68 WITH THE ADDITIONAL CONDITIONS TO REQUIRE A VINYL FENCE AROUND THE PERIMETER OF THE PROJECT AND TO LIMIT THE 2-STORY HOUSES TO 14 AND 10. COMMISSIONER

Commissioner Wilson – So that just limits the two 2-story buildings on the north side but not putting any limitations on the 2-stories on the south side, or did you just want to make the motion that it needs to be as shown on the plat with the CUP?
Commissioner Brunelle – When I first brought up this question about the 2-story plan, Plan A is the one with the 2-story home sites, my concern was with the north side. I’m comfortable just making the limitations to Lots 10 and 14 because homes from Lots 2 to 7 there are three 2-story homes there but they also back up to the Ridenbaugh Canal which adds considerable distance between those home sites and the property to the south which is commercial anyway so my concerns about privacy just aren’t there on the north side. That’s why I’ve just limited it to Lots 10 and 14.

Commissioner Ellsworth – My understanding is that were just changing condition #5 by crossing out the word cedar and inserting vinyl.

Commissioner Brunelle – Yes, that’s my intent.

Commissioner Fadness – It was suggested that we could also on #5 add 5a that the maintenance of the fence be included in the CC&R’s. Is that something you would want to do?

Commissioner Brunelle – I would shy away from placing a condition that would impose a requirement on a CC&R.

COMMISSION ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRUNNELLE MOVED TO APPROVE SUB06-68. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00040/David Benoit
Location: 873 & 885 N. 31st St.
REZONE .409 ACRES FROM R-2 TO R-1MD.

SUB06-00067/Benoit Subdivision
Location: On the northwest corner of 31st and Moore streets
7-LOT TOWNHOUSE SUBDIVISION.

Susan Riggs presented the staff report with a recommendation of approval.

Commissioner Brunelle – When I went into the information packet I was hoping to find some comparison information on setback comparison of an R-2 versus an R-1M, if there’s any significant different and then the second was the density limits on R-2 versus R-1M.

David Benoit (Applicant) – Setbacks in the R-2 zone, because these are substandard lots, are basically about the same. Essentially the R-1M zoning allows for a 10 ft. front yard setback and with the new substandard design review you can have up to a 10 ft. front yard setback so it’s pretty similar that way. R-1M, the density is about the same as R-2. R-2 is 14.5 and R-1m is 12.
They are really similar in regards to the setbacks and density. R-2 zoning, with a conditional use, allows 4-plexes and duplexes. We though the family townhouses would be a little bit better fit not cramming in quite as much as you could with an R-2 zone. It is a down zone from the R-2.

Commissioner Brunelle – What advantages do you see with the R-1M zone? Does it give you more flexibility in design?

Mr. Benoit – Yes, more flexibility in design. The R-1M zoning allows for attached houses more easily than the R-2 zoning. Another developer, David Hale, has done some of the R-1M type zoning. It allows for a little bit of New Urbanism type feel where the R-2 you’d end up just cramming rentals in. This is more intended to be single families instead of rentals.

Commissioner Cooper – I had a little trouble understanding the scope of the project. I’m looking at a site plan with a small vicinity map and at first I thought we were looking at a whole block but it’s more like a quarter block from 31st Street to the alley. Is that correct? It’s not the other side of the alley?

Mr. Benoit – It’s not the other side of the alley or the full block. This projected consisted of 6 row-house type lots of 25 ft. wide each. Instead of doing row-houses we decided to do attached, a little bit narrower units.

Commissioner Cooper – The dimensions of the lots seem to be all different. It looks like they are arranged from 26 or 28 down to 18. What is the reasoning for that?

Mr. Benoit – The reasoning for that is it actually ends up that all the units would be the same width but because you have setbacks they all equal out. So essentially because you have the end units, you end up having to have. I think the end units are the 26 ft. ones, so they would end up being all the same size. We tried to think ahead so that they’d end up so you wouldn’t have to design an individual unit for each lot. You could mass design for architecture purposes there.

Commissioner Cooper – So there isn’t in this package a drawing that shows the proposed buildings on the site?

Mr. Benoit – No, not at this point. We are waiting for preliminary plat approval to start designing. We figured we’d go off the lot sizes we have there and make something work.

COMMISSIONER COOPER MOVED TO APPROVE CAR06-40. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Cooper – I agree with the general direction that the modular lotting is appropriate for bringing in an appropriate density to this neighborhood and it will definitely be an improvement to what’s here now.
Commissioner Brunelle – Based on the answers to the questions I had, I’m more comfortable with this zone change because it really is a minor immeasurable difference in the number of units constructed and it sounds like there are some distinctive advantages towards the applicant being able to do some attached houses which is something that our infill task force helped… Some of you will recall a few months ago Hal Simmons came in and talked and showed us illustrations of the type of housing that I think would result and it sounds to me like and R-1M designation would be appropriate for this approach.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

COMMISSIONER COOPER MOVED TO APPROVE SUB06-67. COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.


Approved:

_________________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
September 18, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Doug Russell, Amber Van Ocker & Lauren McLean.

Staff Members Present
Angela Wood, Susan Riggs, Carl Miller, Cody Riddle, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CAR06-00032/Depot Bench Neighborhood Association

Martha Borchers (Applicant’s Representative/3701 Crescent Rim Dr./Boise) – We do agree to the City’s request for a deferral to November 13, 2006. However, we want to go into the record stating that we were prepared to present tonight. We would also like to request that a deadline be set for work meetings between the city and the neighborhood regarding the neighborhood plan. We’ve already spent 16+ months and hundreds of hours on this process and we want to make sure that the process is not delayed any further than necessary. Additionally, we would also like to request that our response, dated September 13, 2006 to the original staff report be entered into the official record. You should have already received a copy of our response.

Commissioner Fadness – We did get one. We’ll make decisions on what to enter into the record at the time of the November 13th hearing.

COMMISSIONER WILSON MOVED TO DEFER CAR06-32 TO NOVEMBER 13, 2006. COMMISSIONER VAN OCKER SECONDED THE MOTION.

Commissioner Wilson – I would like to bring up to the representative of the Depot Bench Neighborhood Association two things that I’d like to point out about the confidential communication that was provided was that: (1) there was no return address information on it which makes it very risky to drop off. If this had been dropped off at my place of work, they would have called the police; and (2) is we cannot keep anything confidential. Everything is a matter of public record so it was superfluous to put that on there.
MOTION TO DEFER TO NOVEMBER 13TH CARRIED UNANIMOUSLY.

Consent Agenda

SOS06-00015/Renn Gebhart
Location: 6900, 6904, 6912 Petrie & 6918 Poplar
REQUEST WAIVER OF THE SUBDIVISION ORDINANCE.

SUB06-00069/Silverway Subdivision
Location: On the NW corner of Elmer and Eugene north of State St. off of Pierce Park.
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00071/Woodglen Cottages (formerly Legacy Village)
Location: On the north side of Iowa between Illinois and Gekeler
21-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED TO APPROVE
THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF
LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF
REPORTS.

COMMISSIONER WILSON SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00038/City of Boise
Location: South of Interstate I-84 between Cole and Orchard roads
ANNEX 383.5 ACRES WITH ZONING DESIGNATIONS OF A-1, C-2D AND M-1D.

Carl Miller presented the staff report along with two letters of opposition which were
summarized into the record and recommended approval of the request.

Commissioner Van Ocker – You said the M-2D zoning designation that’s city-owned property,
why does the Airport not have the same problem with that?

Mr. Miller – The only property proposed for M-2D zoning is also owned by the city. Any
expansion would have to go through both a conditional use permit as well as design review.
Being that it is also owned by the city, the Airport feels that they would be enabled to have more
opportunity to make comments on any proposed expansion of those uses and if there were any
use proposed that would not be appropriate, being that it’s also owned by the city, we could
insure either would not take place or would take place in a way so that it would not interfere with
the Airport’s goals.
Commissioner Brunelle – The letter that is signed by the Cooks and the Brants raises a question of equity. We’re concerned about not being able to have an M-2D zone, yet what we are hearing right now is Public Works gets it for their parcel. It doesn’t seem fair to me.

Mr. Miller – The use that Public Works has is currently in use and they have some future plans for expansion of that. Being that it’s already being used as something that could only take place in an M-2D zone that would be the appropriate zoning for it. All previous annexations of M-3 properties have gone to M-1D. This isn’t a case where we are restricting certain private property owners with M-1 and allowing other private property owners M-2. This is in some ways a unique case. It’s owned by the city and so we can insure that the uses that take place there would be appropriate whereas if the M-2D zoning is privately owned, we would not have that same ability.

Kevin Blankmeyer (758 Beachwood/Eagle, ID./83161/Representing Another Victory, LLC.) – My clients own properties at 7150, 7200 & 7202 Victory Road. We are going on the record that we are opposed. Staff has given us advice that the biggest portion of our properties is exempt, but for the opportunity to make a statement that we are opposed to the annexation of our properties for the reasons of taxes. As I look at the diagram that is provided by staff, I see a section that’s marked A1. Those are our properties as well and I don’t know how they fit into the possible exemptions from annexation. We would be opposed to those properties being annexed as well. 7150 Victory is the address on those.

Commissioner Fadness – Do you receive or anticipate receiving any city services on your properties that are proposed for annexation?

Mr. Blankmeyer – Currently on the properties that are marked A1 we’re required to connect to city services which includes sewer and water. That’s already been done and we pay a fee for that.

Commissioner Fadness – What about fire protection? Are you in a fire district?

Mr. Blankmeyer – I don’t know what the opinion of the owners are on that.

George Cook (2106 Chippewa Pl./Boise/83709) – I’m the one that wrote that letter that Mr. Brunelle. I would like to go on record by stating that we are not opposed to the annexation, however we are opposed to the zoning that has been designated for our piece of property. The flyer that we were mailed indicated that the properties would be zoned either M-1D or M-2D and it didn’t give us an indication of which properties were to be designated as such. Presently our zoning is M-3 but within M-3 there’s a … airport industrial. That’s under the Ada County Ordinance. When you read the Ada County Ordinance, M-3 Industrial, I challenge Carl’s interpretation of it as being M-1D in the fact that M-3, Airport Industrial, does allow manufacturing. This is not to say that that is the intent of the property. The intent of the
property is to afford my business partner, who’s an investor, as well as I and our wives, some potential source of income for our retirement. We’ve been told by counsel that M-2D is a higher value than M-1D and whatever it comes to is going to ultimately be determined by the Airport no matter what the zoning. It was learned that through e-mail that we be lowered to M-1D and that the only property in the annexation area to be valued at M-2D would be the Boise City property, curiously, and that constitutes a taking as far as we’re concerned. Our counsel said we should be compensated justly for that taking of the value of our property. The fact that Boise City property is the only property zoned M-2D constitutes discrimination and therefore a class action lawsuit is potentially in the works. All we’re asking is M-2D and I’d like to submit another letter to that affect from Mr. Bill just up the street.

Commissioner Fadness – For the record we’ve received a letter addressed to the Mayor and City Council from Basin West Equipment Co.

Commissioner Wilson – The uses that the Airport is opposed to that would be allowed under the M-2 zone, would those be allowed under a conditional use permit or by administrative review? What level of review would need to happen for any of those uses in the M-2 district to be allowed that the Airport objects to?

Mr. Miller – Specifically the Airport objected to landfills, stock yards, and slaughter houses. I believe those were the only ones that they specifically called out in their memo dated September 5, 2006. Sanitary landfill, composting incinerator, stock yard feed lots, slaughter house or rendering plant. As I reviewed this I believe these are all conditional use in the city in both M-1 and M-2 zones. Generally the discrepancies between M-1 and M-2 are mostly for outdoor storage. Whereas some are prohibited in the M-1 zone they are either outright allowed or allowed by conditional use permit in the M-2 zone. Those were specifically the uses that the Airport had mentioned. I would also point out that the conversion from M-3 County to M-1D City is not a down zone. It’s the most similar zoning that we have. Obviously the Land Use Tables aren’t going to match exactly. Obviously there are discrepancies in that we don’t have barbed wire fences as a use, however they do match. The M-1 and M-3 match most closely and that’s what we’ve done in the past for M-3 annexations is to M-1D zoning and that’s what the definitions of those zones and the uses in those zones are most similar.

Commissioner Cooper – The city property which is already being used is considered an M-2D. I guess you could then call it a grandfathering type situation. If the property that Mr. Cook owns was already being used in a use that would be M-2D, would it be considered in the same way as the City’s property?

Mr. Miller – That is correct. Any use that has been approved or exists in the County, upon annexation, is considered a legal non-conforming use. The expansion of that may require approvals through the City. If the property owner had an M-2 use and it’s currently in existence, then we would recommend that be annexed also as M-2 to alleviate those situations with non-conforming uses.
Commissioner Wilson – Just from looking at the comparison of the M-1 and M-2 zones, I don’t have quite the same table that you have that compares Ada County’s to the two. It looks like the 3 uses that the Airport is most concerned about are only allowed by conditional use permits anyway so it would be something that we would need to address if those kinds of uses were considered in this zone, correct?

Mr. Miller – I understand the question to be are we concerned about the M-2D zoning because they would still have to go through a conditional use process?

Commissioner Wilson – No. The question is the uses that have been called out by the Airport as being the ones that they object to most in the M-2 zone are all ones that have to go through conditional approval, so we would have to look at those anyway and we get comments from the Airport and would probably not approve one of those uses if it came before us, correct?

Mr. Miller – That’s correct. It would provide the opportunity for the applicant to request conditional uses for those uses in that zone though.

Commissioner Brunelle – The City’s parcel owned by Public Works is not in the city currently?

Mr. Miller – That’s correct.

Commissioner Van Ocker – Can you point out the Cook’s properties?

Mr. Miller – They are on Liberty and Malad at the northeast corner.

Commissioner Van Ocker – Do we have the authority to assign zoning designations on individual parcels that you haven’t suggested equal zoning?

Teresa Sobotka (Legal) – Yes you do. When you annex property in you get to assign whatever zone you feel is appropriate.

Commissioner Fadness – Wasn’t A-1 also a part of Mr. Cook’s property?

Mr. Miller – Mr. Blankmeyer’s property that he was referring to was located just northeast of Cole and Victory. It includes properties both over 5 acres, which they haven’t consented to, and properties less than 5 acres which staff has suggested that it be zoned as A-1. M-1D may also be a possible zoning as it matches the Comprehensive Plan designation for the area.

COMMISSIONER VAN OCKER MOVED TO RECOMMEND TO THE CITY COUNCIL APPROVAL OF CAR06-38 WITH THE FOLLOWING MODIFICATIONS THAT THE PROPERTIES AT 2428 S. LIBERTY STREET BE ANNEXED WITH AN M-2D ZONING
DESIGNATION AND THE REMAINDER OF THE STAFF REPORT WOULD REMAIN
INTACT.

COMMISSIONER WILSON SECONDED THE MOTION.

COMMISSIONER VAN OCKER – I WILL INCLUDE THE FOLLOWING FINDINGS IN MY
MOTION: THE LAND TO BE ANNEXED MEETS THE APPLICABLE REQUIREMENTS
OF THIS SECTION AND DOES NOT FALL WITHIN THE EXCEPTIONS OR
CONDITIONAL EXCEPTIONS CONTAINED IN THIS SECTION. THE ANNEXATION
WOULD BE CONSISTENT WITH THE PUBLIC PURPOSE ADDRESSED IN THE
ANNEXATION PLAN PREPARED BY THE CITY AND THAT THE ANNEXATION IS
REASONABLE AND NECESSARY FOR THE ORDERLY DEVELOPMENT OF THE CITY
ALONG WITH MY PREVIOUS MODIFICATION TO THAT.

COMMISSIONER WILSON – THE SECOND WILL CONCUR.

Commissioner Brunelle – I will support the motion. I don’t have real strong feelings about this
but one thing that came to my mind would be rather than making the adjustment to the properties
to zone them as M-2, a simple fairness in my mind would have been to take the city-owned
parcel, zone it M-1 like everything else, grandfather in the existing uses on the Public Works
property. The City Council might want to think about that, but either way this is going to the
City Council for their ultimate decision so I say we move it forward.

Commissioner Wilson – Just to comment about the special exception that we made for the
Cook’s property on M-2, I think that this was appropriate given that the stated concerns that the
Airport had would be things that would be conditional uses anyway and that probably if in the
future the Cooks wanted to do some of those uses that we would likely deny them because they
are in the Airport zone. I think that it is fair since they have come before us and said that they
don’t object to the annexation per say, but instead just want a zoning that they feel is more
appropriate for their property. I think it’s good for us to honor that and recommend to the City
Council that they maintain that as well.

MOTION TO RECOMMEND APPROVAL CARRIED UNANIMOUSLY.

**CAR06-00044/Conger Management Group**
Location: 9839 W. Overland Road
REZONE 4.73 ACRES FROM A-1 TO R-1B.

**CUP06-00073 & CVA06-00033/Conger Management Group**
Location: 9839 W. Overland Road
REQUEST A PUD CONSISTING OF 17 RESIDENTIAL UNITS ON 4.73 ACRES IN A
PROPOLSED R-1B ZONE WITH A VARIANCE TO REDUCE THE REAR YARD
SETBACKS TO 15 FT.
SUB06-00072/Watersilk Subdivision
Location: On the south side of Overland Road between Countryman and Cottrell
19-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

Cody Riddle presented the staff reports with a recommendation of approval.

Dave McKinnen (Applicant’s Representative/735 S. Crosstimber/Boise) – This is an infill project and sometimes they have a lot of little issues to work through, but as staff pointed out, this is a small 5-acre piece of property just off of Overland Road about a half mile east of Five Mile Road. It is a 5-acre residential subdivision. We’re trying to do something that’s very similar to what Mill Creek currently is. Mill Creek is a subdivision that has just under 8,000 sq. ft. houses with lots that range up to 12,000 to 13,000 sq. ft. The lots that we are proposing are between 8,075 to 10,000 sq. ft. each so they are very similar in size and in the type of home that will be built there and we are surrounded on 3 sides by Mill Creek so we’ve had to do something that matches identical to that. The variance request was to ask for the same setback requirements that they were given when Mill Creek was approved so that we could match up the existing subdivision that surrounds us. In designing this subdivision we ran into a couple of really funny little issues that became kind of big issues. The first one, we met with ACHD with a pre-app and they said we were fine and what we showed them was okay. What we showed was keeping Overland at the 40 ft. from center line and keeping the existing sidewalk. We showed a detached sidewalk. We showed a 50 ft. wide landscape buffer identical to what Mill Creek has. Right before our tech review 3 or 4 weeks later the CIP had been adopted and when the CIP was adopted ACHD decided that they would go to a 60 ft. from centerline of right-of-way so ACHD required an additional 20 ft. of right-of-way from us so our 50 ft. landscape buffer all of a sudden was reduced to 30 ft. They said if we are going to build a detached sidewalk they’d like the detached sidewalk in its final location which is essentially 20 ft. back from the existing sidewalk right now. They said rather than a detached sidewalk they’d like to see that. In arguing with them we said we’d really like to put in a detached sidewalk. Our plans include a detached sidewalk and they said if we’re going to build a sidewalk they’d like it in its final location because if we put it in a different location they’d have to tear it out in the future. When they widen Overland they’d have to tear it out and build it in its final location. We’re okay building a detached sidewalk. We have no opposition to a detached sidewalk. You’ve seen in the letter from the neighborhood they’d to see a detached sidewalk. If ACHD will allow us to go ahead and to a licensed agreement for a detached sidewalk on their property we’ll be more than happy to do that. After ACHD pulled that on us they did us a favor. They said they really didn’t think this was the right location for another access. There’s already 37, 38 access points between Five Mile and Maple Grove on Overland and they said we really don’t need another access point. You have two collector streets already located on this site and they didn’t believe this is the appropriate location for another street because we believe it would act as a collector so they said we don’t need to have this additional roadway connection. The final issue we worked through on this design was how we deal with the off-set Watersilk stub street. As you can see from the site map Watersilk enters the subdivision at an off-set, basically 105 ft. on this site with 165 ft. to
the west. We decided to work someway to still get the same lot sizes to better the appearance of the street, to reduce the garage domination of the neighborhood, to reduce the amount of driveways and impermeable surface so we let’s figure out a way that we can use some shared driveways and keep the same lot sizes and have a better streetscape, bring the houses and the living space closer to the street and so we’ve tried to create a similar feeling to the subdivision at the end of this cul-de-sac that would allow a little bit more privacy and bring the living area closer to the street and reduce the streetscape that you usually see in a standard subdivision with driveways and garages dominating the streetscape. We’ve had several meetings with the neighborhood association. We couldn’t come to agreement on a few issues but we hope that you see it the way that we do tonight. We’re doing what we can with this piece of property to increase the streetscape and to create something that will be of value in the future for the City of Boise.

Commissioner Fadness – For the record we did receive a site drawing in addition to what we have in our packet.

Eric Nelson (9751 S. Countryman/Boise/83709) – I am a member of the Mill Creek Homeowners association board. As such I speak the voice of many of our residents. Mill Creek as you may or may not know is a subdivision made up of 169 homes that have been built in 4 phases. We are excited to have new neighbors. We would hope to make them the 5th phase of Mill Creek and we are working actively in making that happen. The new homeowners in Watersilk Subdivision would enjoy the benefits of being part of Mill Creek. As you have seen we are surrounding them on three borders and so it is in our best interest and theirs as well to work together. We would like to allow them to participate and partake of the parks that we have. We have 2 private parks, several private walkways and we would like to involve these homeowners in partaking of those benefits of being in the Mill Creek Subdivision. Obviously we have a few differences and some of the homeowners will be mentioning those tonight. I wanted you to know that we are excited to have these homes as part of Mill Creek and we are working to work out some of these differences. One of the things we really want to emphasize and as the developer has mentioned is that we are not in favor of punching through to Overland with another access to this development. We feel that is just another exit onto Overland that is not necessary. There are already two very well placed collectors off of Goldking and off of Cotterell that handle the traffic to Mill Creek just fine. We do not think that another punch through to Overland is necessary. We have a very active homeowners association. We have a board that is very active in participating in issues that involve architectural violations as well as other sorts of CC&R enforcements that we would like to have. Imagine being surrounded by Mill Creek and we have these new homes that popup and we have no control over them as an architectural board. This is another reason why we are very interested in participating and working with these developers in making this a Phase V of Mill Creek.

Brandon Winters (1773 S. Watersilk/Boise/83709) – We just moved into this neighborhood and got the notice in the mail of this so it’s kind of exciting for me. I support the staff’s decision to make Watersilk a cul-de-sac. If you look at the plat, Cotterell and Goldking are definitely setup
in the photographs and the information you were given is accurate and I support that decision. If you look at Watersilk as is, there are 10 homes directly facing it without the other amenities that were made on Cotterell and Goldking to reduce the traffic so we do support that decision. I oppose the double stacking of the homes. If you look at the plat you’ll see that type of a situation with a common driveway nowhere in Mill Creek or any of the surrounding neighborhood areas so I oppose that.

Commissioner Fadness – I’ve received for the record from Mr. Van Houten a summary of a petition that was submitted by the Mill Creek Homeowners’ Association.

Troy Van Houten (9720 W. Bridgegate/Boise/83709/Boise) – I represent the Mill Creek Board and also the Southwest Ada County Alliance as a board member. The packet that I have given you has the actual signatures of a petition that we have distributed in the last couple of weeks in regards to the development. I’ll echo the statements from Eric that overwhelmingly we are in support of the development. I want to make that very clear that we do want this development to move forward, but we just want a couple of adjustments made and I don’t think that are desires are really too much of a tall order. I’ve been in conversation with Dave McKinnen and also Cody. Primarily with the packet that I’ve given you you’ll see page #2, the pictures of the detached sidewalk. I want to come prepared. It doesn’t sound like there’s too much of an issue in regards to agreeing that we do want the detached sidewalk to continue from the beginning of Mill Creek all the way down so it’s a continuous sidewalk. Right now there is a break in the sidewalk because of this property and I know having children you can see the attached sidewalk goes all the way down, but my children have to get off of the detached and get onto the attached and then get back on again so you’ve got this danger level along Overland with these cars whizzing by and so by having this development. By having the detached sidewalk I recognize that because of ACHD’s future plans, the proposal is 7 lanes. That’s going to be a battle we’ll fight some other night. Because they want that to be extended, berm will come down a little bit and we’re fine with that but we just want this continuous detached sidewalk because my kids like to ride down to Five Mile Plaza and we have a lot of pedestrians that use this and we see this as an improvement to have that detached sidewalk along the berm. We definitely realize that 20 years, 20 years is a long time that ACHD might decide to tear that out. We’re fine with that, but let us enjoy it for 20 years to have a cement sidewalk that matches what we have today. That’s all we ask. Let’s cross that bridge later on down the road if we have to fight that battle on tearing that out or whatever that might end up being. I included those pictures and the signatures there are representative of another issue that we have deep concerns about. I’ve talked to Dave McKinnen with Conger Group about this multiple times. I think in some ways we’ve agreed to disagree, but we have some concerns about the double deep lots. I think it’s obvious that any developer would want to maximize the revenue for that area and so there’s no question on why they want to do that, but there’s been some terms, and I know that from a staff report there’s terms that are used consistently throughout these reports, but compatible and complimentary, those were some terms that were used. I have to disagree diplomatically that I don’t think those double deep lots are either of those. If you look at Mill Creek today, granted there are many homes where the garages do face the street, however as Eric mentioned, we have a very active
architectural control committee and because we are pursuing having this area annexed in as Mill Creek Phase V, we would have a certain level of control to verify that we would stagger the way that the homes are sitting on the lots so we would not have the homes with garages facing the street. That was one concern I think was brought up. I also want to make it clear that these double deep lots, if you’ve ever had family members or situations where you’ve know somebody who lives in the back lot, you have a situation where you have another neighbor in front of you and so therefore you are constrained by what they are doing on their portion of the driveway and so you can’t always get out, you can’t always get in because if they have kids, they have a boat, they have a trailer, there’s toys out there, there’s bikes, so you’ve got this constraint where the lots typically aren’t designed to have them stacked like that and so we want to be fair to the development group. You see this in your packet. We don’t have a problem here without a couple of proposed solutions. One is if we were to slightly jog the road over and it’s obvious that this plat is uneven that’s why these lots are so deep. Why couldn’t we even this out a little bit and have the road (here)? Granted the lots would larger. I’m not a real estate agent but I can guarantee you that those lots would not last long given their size. Revenue is an issue for the Conger Group, but I would imagine that there wouldn’t be any shortage of buyers if those lots became larger and more even on each side rather than these ultra deep lots over (here). Again, the skinny driveway where it’s going to be hard for (these) people to share that and then these normal lots over (here). That was one option. The other option is keep the street where it is and maybe take out just 2 of the homes and pull them apart a little bit to make the driveway even more wide and maybe it’s not a driveway but it’s just a regular asphalt street that ACHD would normally have versus a cement driveway so you have some additional width for the consideration of the homeowner that lives in the back because again, I see that as a constraint. I can’t imagine purchasing a home in the back and being stuck back there because my neighbor locked his car up and he’s taking a nap and his big suburban is parked out in the way. What am I supposed to do to get out of there? I want to make it clear that we are supportive of the development but I think there are some other options. From the day that this proposal was brought up, the communication has been strong with the Conger Group so I want to give them credit for that. But, this is the same exact plan today that it was when they first proposed it. My concern with that, I have list here because I’ve been in Mill Creek for over 10 years, Black Eagle, Rose Creek, Union Square which was just a couple of months ago, and Coronado Place. Every single one of those developments near Mill Creek, the developer made some compromises. They helped us. We worked together as a team and we changed some things. This development, everything is the same as when it started. We’re just looking for some help here to say let’s widen those lots, let’s move the road over, let’s just make it match those words of being compatible and complimentary because as it sits today, what we are concerned with is because this is Mill Creek Phase V, we don’t want this to be the other part of Mill Creek. So you’ve got the existing part and you don’t want the other part because you’ve got these funky homes that sit along the back here. Not an issue of quality, I’m sure that based on our architectural control process that the homes will look nice. It’s just something that we’re not comfortable with. I’m not afraid of something being different. I just want it to be something that we are comfortable with from a look and feel of what’s already in Mill Creek.
Commissioner Fadness – I just want to make sure I understand your proposals. The first one is you would move Watersilk a little bit to the north so that the lots on the west aren’t as deep, so will that mean four less lots on that west side?

Mr. Van Houten – I think that is correct. It would mean fewer lots, but the lots would end up being larger so right now you’ve got 3 lots parallel at about 8,000 sq. ft. apiece. What they would end up being is two lots at 12,000 sq. ft. so you’re not able to sell the 3 but you’re able to sell the 2 for the same amount of revenue, it’s just that you have one less house because of the lack of real estate at that size in this area.

Commissioner Fadness – The second option would be to take one or two lots out on the west side and widen the 1, 2, 3 driveways?

Mr. Van Houten – That is correct.

Commissioner Fadness – So that would mean less 2 possibly 3 lots?

Mr. Van Houten – I would imagine that would be 2 whether you take it from each end, but would just widen those so it would look more like a normal street rather than skinny driveways that go back to these homes in the rear. All we’re saying is to widen it out a little bit so they are not as tight as what they seem to be on the description.

Commissioner Fadness – So there would still be a couple of spots where you’d have 2 houses deep.

Mr. Van Houten – That is correct and that’s where I spoke before. We’re willing to compromise, but I haven’t heard that from Conger Group. That was one idea, take out maybe two of those and just spread it apart a little bit.

Commissioner Russell – It’s kind of a new thing for me to hear about a subdivision trying to annex in a new area. I’m wondering if you could tell me what legal grounds you have, if any, and if this is something you guys dreamed up or if this is something that’s done on a regular basis.

Mr. Van Houten – I can’t claim to be an expert on that topic but I’ve consulted with our property management company along with Conger Group and our covenants do allow, and I use the word annexation lightly, that’s probably more of my term. I don’t know if legal counsel has any direction on that but I do know that there is a way that we can pull them in so they are a part of Mill Creek. The documents that are filed that Mill Creek stands as its own entity as a subdivision, they would then become part of that so therefore they are contingent upon the CC&R’s, ACC, all the same rules and guidelines that we have. I don’t know all the details on that. We’re proceeding with that. I was under the understanding that we would not pursue that
until it’s approved from you and also Boise City Council. We’ve yet to actually move through that but I understand that it can happen.

Commissioner Russell – Has the applicant agreed to this annexation?

Mr. Van Houten – Yes, we had that conversation very early on and that was an agreement. I think it’s a benefit for them. It takes work off of them because they utilize our resources. One think I should tag onto what Eric was talking about is we also have pressurized irrigation and it’s going to be difficult if they are not part of Mill Creek because the Nampa/Meridian Irrigation District is going to have to, through some magic, somehow connect water to that. If they are a part of Mill Creek, they use our existing infrastructure, we have a pump house on the creek there and they would tie into our system so that’s the other benefit of bringing them in as part of Mill Creek. By not having them part of Mill Creek I don’t know how in the world they would get water because they have to use our infrastructure to do that.

Commissioner Russell – Can you tell me what the average lot size is in Mill Creek?

Mr. Van Houten – As was stated by Conger Management Group, it’s between 8,000 to 12,000.

Commissioner Russell – And this is the existing Mill Creek?

Mr. Van Houten – That is correct so I wouldn’t say that their proposal is out of line from square footage. The only thing that’s different is the double deep lots.

Commissioner Wilson – Staff, I have a question about the rear yard setback variance that that the Conger Group is seeking. Is that for the rear yards that would be going between the double deep houses and then is the west edge of this actually a side yard setback?

Mr. Riddle – The setback request, through conditions of approval that setback would apply along the perimeter of the property. We advertised it for the entire perimeter, but conditions of approval require them 30 ft. right (here). They have requested exceptions from some of the interior development setbacks that are allowed through the planned unit development process.

Mr. Van Houten – To give credit where credit is due, we do have a homeowner independent of the Mill Creek Homeowners’ Association proposal tonight who will be speaking to that who is independently gathered some signatures and has some information who will be testifying later.

Ron Weber (1683 S. Linda Vista Dr./Boise/83709) – I represent the 14 contiguous homeowners on the east, south and west side of this property. I’ve already submitted our petitions to Cody and I think you’ve already gotten them in your packets. I will hand you the originals. When I wrote up this petition I was aware that originally we had been zoned under County configuration of 5 ft. side setbacks and 15 ft. back yard setbacks. I refer to that in our petition. However, upon going around and getting 100% of the signatures of all the contiguous landowners and taking a
look at all of their back yards, I found that 13 of the 14 homes that border this proposed development exceed 28 to 30 feet on their rear setbacks. There was only one piece of property which is on the east fence that according to the modification of the variance request, probably won’t be affected and I happen to own that piece. My south corner is 18 ft. and my north corner is 23 ft. from the property line. On my side it’s a moot issue, however I’d like to talk on behalf of the 6 homeowners on the west side because there’s not a single homeowner on the west side that is closer than 30 ft. from that fence and they are extremely concerned about this requested variance. I couldn’t resist the urge to take a look at the plot map that has been presented to you. I can see what the square footage that was plotted on that and I’m here to tell you that whomever did the mathematics on that was in error. For example, Lot #11 is about the only lot that would meet the 8,000 requirement. They were talking about the lot size being reduced from 9,000 required under the current R-1B zoning to 16,000. Lot 11 is 100 x 80.07, that comes out to 8,007 sq. ft. It is shown on the map as 9,147 sq. ft. Lots 2, 3, 6 and 7, which are the lots that would border the west fence are shown on the map as being 8,556 ft., however if you take 95 x 80.07 it will come out 7,607 sq. ft. The interior lots are the lots that would border Watersilk Way where the common roads would be. If you discount the 20 ft. common driveway those lots, instead of being 85x95 would actually end up being 75x95 or 7,125 sq. ft. We are opposed to those skinny roads because the only way those people on the west side could get out would be to back out over 110 ft. and they are going to have to access the main road to get out of the subdivision in reserve. The things going to be a hazard for the kids. I see no variance or nothing down for sidewalks or curbs or gutters to protect those kids. We are opposed to the 15 ft. setback that they are asking for and we agree with that the narrow common driveway shouldn’t be allowed either.

Jeff Harr (1755 S. Watersilk/Boise/83709) – I’m the homeowner on the southern side of the western portion that seems to be in dispute. I do not object to the annexation and a change in zone to residential nor do I object to not having it be a through street. I do highly object to the housing positioning and the double stacking. If you look at the map that you were given and the double stacking, I’m the homeowner that is to receive two additional houses that will look into my back yard. I’m the only homeowner that will receive two houses looking directly into their back yard. One question that was brought up was the 15 ft. variance. It was said that that is on the west side. Is that going to be treated as a 5 ft. variance as being on my side and that I will have houses 5 ft. from the fence instead of 15 or 20 ft. and I don’t know the answer to that question. Additionally talking about the skinny roads and I’ve talked with several police officers within Boise City and shown them the map and they are concerned with emergency access to be able to get down that road and quail any situations that might arise and how difficult it is to drive down roads of that nature. I urge you to consider that while you are approving this plan and having emergency vehicles come down and respond. I do highly object to the double stacking. I do not think it is compatible. If you look at the map within your packet of the entire subdivision of the entire area, I do not see any double-stacked houses with skinny driveways within a few square miles of the map that I was looking at. I highly object to the house positioning of double stacking.
Betty Bermensolo (1970 Cannonaro/Boise) – I live off of Overland Road. I do understand the City’s desire to maximize opportunities for infill, but I do feel that Mill Creek has presented a lot of very strong arguments for looking at this parcel and some of the suggestions that they’ve made and some of their concerns and I appreciate them having the opportunity to take the time that was needed to present them to you. I do feel that the Comprehensive Plan states this area for estate density residential, which it currently is, 3 dwelling units to the acre and does make the proposition that it could go to a higher density, but the applicant wants 4.8 dwelling units to the acre and I think the way that it is presented, the way it’s proposed, increases the density to a level that I would find too dense for the amount of area that this is being attempted. I think that there should be some middle of the road here struck between what the applicant wants and some of the suggestions that the existing neighbors have placed in front of him. I think it really benefits Conger Developer economically to work a little more closely because in the end I think there’s some real benefit in putting this together that they will want to be thinking about if they sit down and work through this a little more. For somebody that’s had a pretty severe accident on Overland just several feet from this area where I ended up on the south side of the road having been rear-ended, it really is encouraging to know that we might be able to push for a detached sidewalk that would continue along that stretch as well. I think that’s what’s now proposed on Union Square on the north side of Overland Road and it does soften and safety is certainly the primary reason that I am coming here and asking for that consideration.

Commissioner Wilson – About the detached sidewalk that’s shown on the site plan, it looks like it just goes for half of the property and then the other half is somebody’s house, is that correct? The detached sidewalk doesn’t go all the way down?

Mr. Riddle – That’s correct in that there isn’t room to accommodate the detached sidewalk while maintaining the existing home. The sidewalk that’s missing there is where the existing residence is proposed.

Commissioner Cooper – There was some discussion that the residents wanted a detached sidewalk to connect to the existing detached sidewalks, however when I look at the aerial photo it looks to me like the existing detached sidewalks actually come back and become detached at the street intersections with Overland, is that correct?

Mr. Riddle – You can see the sidewalk where it does come back or it’s not adjacent to Mill Creek and it’s attached at those points. It’s detached only in front of Mill Creek.

Commissioner Cooper – So that the sidewalks on either side of Gold King and of Cotterell are detached kind of in the middle of that expanse but then become attached at the intersections. I don’t see any other way of doing the sidewalk other than what’s been proposed. If it were detached all the way it would end at nothing.

Mr. Riddle – That’s correct.
Commissioner Cooper – There’s also been a comment about the connection to Overland in that ACHD doesn’t want it and the neighbors don’t want it. On the plat it’s shown as an emergency vehicle access. Is that being required by the Fire Department?

Mr. Riddle – That’s correct. Due to the length of the cul-de-sac they require that secondary access.

Commissioner Cooper – Mr. Harr talked about the setback adjacent to his property. It’s not clear to me whether that would be considered a rear or side setback at the south.

Mr. Riddle – I believe the applicant has proposed a 15 ft. setback in that location, however I want to point out that really that’s matching the interior side yard of the gentleman that spoke. There’s a recommended condition of approval, #17, in your packet that indicates a 10 ft. setback on the southern boundary that would be required. If the applicant is amenable we could indicate that on the west side of Watersilk a 15 ft. setback would be required to address those concerns. We would then be providing a rear yard in the new project adjacent to an interior side yard where he could build to 5 ft.

Commissioner Cooper – So on condition #17 where you recommend the southern boundary be 10, you say the applicant has not made a recommendation for that setback yet?

Mr. Riddle – I believe graphically it’s indicated at 15 ft., but if they are amenable to that we could adjust that condition to require 15 ft. there.

Commissioner Russell – Is the emergency access going to be barricaded for fire access only or is that going to be open all the time?

Mr. Riddle – There would be bollards in those locations. Regarding the common driveways, there were quite a few concerns voiced with that, the double lotting and compatibility issues there. If we look at the plat where the common driveways are utilized, still we have one structure, one lot in most situations, adjacent to one lot. We’re requiring compatible setbacks in those locations where each of these homes could in fact add on to the 15 ft. setback if they chose. Parking is restricted along the common driveways so there won’t be conflict there. Turn-arounds have been provided at each location. Anyone pulling out onto Watersilk would actually be facing traffic. Staff finds this to be a very appropriate solution for this project. Density-wise it was mentioned that they are proposing 4.8 dwelling units per acre. That’s what would be the maximum allowed in the R-1 zone. With this specific development the density is 3.6 dwelling units per acre.

Commissioner Fadness – There seemed to be quite a bit of discrepancy in what staff came up with on the square footage for the lots.
Mr. Riddle – The square footage indicated on the plat provided by the applicant included the flag portion. Through the PUD process we can reduce the lot sizes as long as we don’t exceed the density of the zone.

Commissioner Cooper – I would assume like any other single family residence each of these proposed residences is going to provide two off-street parking spaces and a 20 ft. setback to the garage.

Mr. Riddle – That’s correct. It’s required.

Mr. McKinnon – We have been in discussions to be annexed into Mill Creek. We’re excited to work with Mill Creek. We’re surrounded by Mill Creek. We’ve got a landscape buffer along Overland that’s on both sides of us that is owned and maintained by Mill Creek and we felt it would be appropriate to become a part of Mill Creek so we have been in discussions with them. In negotiations they’ve been very good to work with. They’ve actually sent us electronic copies of their CC&R’s and their architectural controls. We’ve looked over those and find those to be entirely acceptable. If anything we’d like to increase the standards of architectural control within this subdivision because we are dealing with a little bit different type of development with the common shared driveways. Mr. Nelson pointed out that there’s not need for a connection to Overland. We would appreciate your support with staff’s recommendation not to require us to connect to Overland. We’ve spent a good deal of time with your Fire Marshall, Dave Miller, in talking about this connection and how he wanted it bollard it off. We also felt it would an amenity to have that hard asphalt pathway out to Overland to provide pedestrian access to Overland for people to get further down to Maple Grove and Five Mile where the activity centers are located. There will be two off-street parking spaces, there are turn-arounds that are provided within the shared driveway situation so that all vehicles can exit facing forward so they can see any children that would playing in that area. We do feel that this actually going to be a benefit to Mill Creek to be able to have this many more homes added to Mill Creek to help support the Mill Creek Homeowner’s Association. Commissioner Fadness had a great question with the annex into Mill Creek and there was a question that was brought up after that dealing with the PI system. We have had discussions with the Nampa/Meridian Irrigation District about connecting to their pressurized irrigation system regardless of annexation into the Mill Creek Homeowners’ Association. The original pump station is in Mill Creek. It was sized to include this and they said there will be water provided to us regardless of annexation and the homeowners’ association, we may have to increase the pump size. Mr. Harr brought up a couple of great issues and we’ll be more than happy to abide by the setback requirement of 15 ft. on the perimeter for every yard setback on that portion. We’re in agreement with all the conditions of approval in the staff report and ask for your approval at this time.

COMMISSIONER COOPER MOVED TO APPROVE CAR06-44. COMMISSIONER RUSSELL SECONDED THE MOTION.
Commissioner Cooper – I think the rezone is exactly the right use category of R-1B. It allows a density of units per acre exactly like the surrounding area.

MOTION TO APPROVE THE REZONE CARRIED UNANIMOUSLY.

COMMISSIONER COOPER MOVED TO APPROVE CUP06-73 AND CVA06-33 CHANGING CONDITION #17 TO REQUIRE A 15 FT. SETBACK AT THE SOUTHERN BOUNDARY.

COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Cooper – I really appreciate the discussion by the neighborhood. It sounds like this is a very cohesive group and cares a lot about their neighborhood. I have to say though that what I think that what is proposed here is compatible. The lot sizes really are the same and I think it’s a clever adjustment to have the stacked lots on the west side. I think the view on Watersilk of having no garage doors will be much preferred to what would otherwise be typical in a subdivision. I think the discussion has shown that those driveways will really no less safe then at least a neck part of a cul-de-sac. A cul-de-sac itself has more space.

Commissioner Russell – I think it’s a really good design also. I really have to say that I think these shared driveways are really kind of a nice idea. I think that the homes that are located at the backs of those drives are probably going to be some of the ones that are most sought after. I think that this is going to be a nice development. I think it’s going to be a nice addition to Mill Creek and I appreciate the product that was presented to us and I appreciated the good presentation.

Commissioner Brunelle – I’m going to vote no on the CUP and it has to do with the 15 ft. setback on the western boundary. The staff report finds an exceptional circumstance related to the property and it’s based on a subdivision plat note, and then it ties the plat note to the City Comprehensive Plan Policy regarding new residential development within existing neighborhoods is compatible with existing structures and the privacy being maintained. The plat note isn’t the end of the story here. The end of the story is what’s out there. What you heard tonight in the testimony is that the homes are not 15 ft. away even though the plat note said that you could have a smaller setback. I conclude that there is no exceptional circumstance. I also think there’s a compatibility problem when we’re allowing a setback that close to the western property line of 15 ft. It would have been beneficial if there’d been some elevation drawings so we would know if these are 2-story structures, if there were privacy concerns. I didn’t hear that from the residences so I didn’t ask that of the applicant. At the same time that’s not the issue with me, it’s the record and the staff finding by concluding that they found an exceptional circumstance based on an old plat note from a county subdivision. It isn’t enough because of what’s out there.
Commissioner Russell – I can appreciate the point that Commissioner Brunelle has brought up. One of the ways that I was looking at this project when I look at the homes and kind of how they were laid out on these lots is I kind of see that western boundary as being more of a side yard. When you look at the way these homes are laid out it appears that most of the patios are going to lie either on the north or the south side of those homes which are adjacent to that west boundary. It’s because of that that I feel comfortable with that 15 ft. setback on the west boundary.

Commissioner Cooper – I’ll add that I don’t really agree that it’s about what’s out there, it’s really about what could be out there. Those people still have a 15 ft. setback so anybody can put an addition on their house to within 15 ft. of the property line. They are not agreeing to increase their setbacks to 30 ft. so I believe this is compatible.

MOTION TO APPROVE THE CCUP06-73 AND CVA06-33 CARRED WITH COMMISSIONER BRUNELLE VOTING AGAINST.

COMMISSIONER COOPER MOVED TO APPROVE SUB06-72. COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00030/Boise State University
AMENDMENT TO SECTION 11-04-11 OF THE BOISE CITY CODE REGARDING REQUIREMENTS FOR THE U-ZONE.

COMMISSIONER WILSON MOVED TO DEFER TO NOVEMBER 6, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

AT THIS POINT IN THE HEARING COMMISSIONER BRUNELLE DEPARTED SO THE FOLLOWING APPLICATIONS WILL NOT REFLECT HIS VOTE.

CAR06-00066 & CVA06-00029/Boise State University
Location: 1002 S. Lincoln Ave.
REQUEST A HEIGHT EXCEPTION AND A VARIANCE TO CONSTRUCT A 5-STORY, 72’ HIGH PARKING GARAGE WITH REDUCED SETBACKS IN A “U” ZONE WITH A REQUEST FOR VARIANCES TO THE SETBACKS.

Commissioner Van Ocker stated she would be abstaining due to a conflict of interest.

Angela Wood presented the staff report with a recommendation of approval of CAR06-66 and denial of CVA06-29.

Whitney Rearick (Applicant’s Representative/1910 University Dr./Boise) – This is a 5-story parking garage at the corner of University and Lincoln. We’re requesting a height exception and a variance. The variance is the issue that we are concerned about here because staff has
recommended denial. I respectfully disagree that we are next to any residential uses. The aerial map you saw is a bit outdated. Surrounding uses are storage for Geo Sciences, our lock shop, vacant properties which we just acquired last week, parking & public safety and offices. There is a triplex which is a rental unit and I anticipate the University will acquire it. It does have compatible uses. It’s got a tall building which is the University Union which will eventually go away as well. This is phase 1 of a 2-phased parking garage project that will eventually take up the whole lot. It’s also compatible with this use which is the Student Recreation Center. Eventually there will be mixed uses down here as well as reflected on our master plan. The reason we sought a variance and we sought to bring the building closer to the edge is that just by the very nature of parking garages and the way this is built, if we have a greater setback we’ll lose a great number of parking spaces. Our goal is to frankly get cars up off of the street and out of the neighborhoods because as you know down here is a neighborhood. As you know people like to park down there. We’re trying to get people into this area. Also the first floor is office space for parking and public safety. That will create a street front and is much more pedestrian friendly and looks like a store front. We do have some elevations to show you as well.

Patrick Sullivan (Applicant’s Representative/1910 University Dr./Boise) – We do have 9,500 sq. ft. of office space proposed in the northwestern corner of the building. The entire footprint on the first floor is 56,000 sq. ft. We are … inaudible, which leaves… We are asking for a 5 ft. variance… which leaves 12 ft. to the curb. It allows us to put in urban … our plan to have more… boundary in this area and elsewhere on campus. On the Belmont (south) side we’re looking at … ft. setback which leaves …. We feel that this proposal … a 2-phased approach allows the University to reach… with 750 stalls in the first phase, 750 stalls in the second phase and the setback allows us … functional garage… surface parking lots and into this…

Ms. Rearick – You might be aware that we presented our master plan before the City Council last week. Our goals and objectives contained in the master plan were adopted by the City Council. One of the goals of our master plan was to create a more pedestrian and urban style campus. We feel that this, with the reduced setbacks, more urban style, the street treatments with the wide sidewalks and trees will be a lot like a lot of parts of downtown. It’s a more traditional urban campus is the direction we’re going in. This is one step in that direction.

Mr. Sullivan – We have a western… We’ve broken it up…

Commissioner Fadness – Do you have an estimate, if you were to go with the City’s setback, of how many parking spaces? You mentioned 750 stalls in the first phase and 750 in the second phase. How many would you lose with city setbacks?

Mr. Sullivan – Ultimately I believe we would lose around 150 to 211 stalls. What we would have to do is actually remove a bay off of the first phase and then mirror that on the second phase. …. Around 200 stalls in the first phase.
Commissioner Fadness – The 6% grade, that would be affected how? You’d have a worse grade?

Mr. Sullivan – We would have a deeper ram approach and also what it would do is… We might have to go to diagonal parking… We’d lose one entire bay of parking for 5 levels.

Commissioner Fadness – It wouldn’t be like the Bodo garage would it?

Mr. Sullivan – That’s what we’re trying not to do. We trying to have some generous turns, some generous stalls so that we don’t get into a pinch and have a garage that you can’t navigate.

Ms. Woods – One thing I did want to clarify is the setbacks mention there’s a… that’s is just about residential structures. First if a structure is multi-family it’s still residential. Second is it’s not just about residential structures, residential zoning too. A large majority of the area that is south of University Drive is zoned R-2 which is combined residential. Setbacks are in place to protect all abutting property irregardless of use. We have to look at current conditions and each case on a case-by-case basis. Currently with the loss of spaces they have to comply with conditions that are applicable to all properties and when awarding a variance you have to prove up on the reason why a case is exempt from those conditions. There is a condition contained within the staff report that makes much of the arguments presented moot in that the pending Zoning Ordinance, they’d have to prove up that they are compliant with those existing setbacks. My anticipation is that it will end up being much less 20 linear feet, it will end up being either 10 or whatever’s determined through City Council or the next public hearing process. The reason why we deferred this item in the first place was so that it would be heard with that pending ordinance and so now without that presentation tonight this seems a little out of order. Not that I’m lobbing for another deferral, I think we can make the decision before us tonight but I did just want to address that for the record.

Commissioner Fadness – Are you saying that when the new Zoning Ordinance amendment comes that the more lenient setback could be allowed under that amendment?

Ms. Wood – That’s correct. Not lenient to this point as presented on the site plan. As I understood it, it was 10 ft. and I learned this evening that determinations were made today that the end conclusion, and I know Lance Evans isn’t here to describe, but was that the setback would be 10 ft. It would be less than that so I will let the applicant speak to that. If different determinations are made one re-informs the other height exceptions and variances, in this case, in the use of open space and appropriate buffering between public areas and the private area of the parking garage.

Commissioner Fadness – The setbacks in other newer parking garage further to the east, do those comply with City Code or was a variance granted on that?
Ms. Wood – There was a time in BSU’s history where history of previous zoning entitlement applications was scanned, but when I walked this site I paced them out and it seemed to be compliant with the setback. I couldn’t find any parcel history saying that that parcel had been granted a variance. Spatially when you look at that parking garage, there is significant area between the sidewalk and then that landscaped area where it contains some trees. I know that BSU may be able to speak to what the linear footage of that is, but I don’t know.

Commissioner Wilson – One of the things that was mentioned in the staff report but the issue of the clear vision triangle at the corners caught my eye.

Ms. Wood – Measured from the outside of, this is defined and we helped reinforce it with the Ada County Highway District and this is to insure pedestrians, cyclists and vehicular safety, but when you measure it from a corner 40 ft. back from any intersection of sidewalks, when you then have a driveway or alley approach into public right-of-way, it’s measured from the inside of the sidewalk and that’s 10 ft. back and 20 ft. over. The reason why I was bringing that up is it’s especially important in the U district cases where it doesn’t include a Design Review overlay. Usually we’ll include it as a condition of approval for their conditional use permit entitlement knowing that it will proceed to Design Review and be corrected. But in this case we will never have a second look to make sure that adequate clear vision triangles are provided or landscaping or even spatial areas of sidewalks.

Commissioner Cooper – On the setbacks, they are asking for variances from what are normally 20 ft. setbacks to the streets?

Ms. Wood – That’s correct.

Commissioner Cooper – And if this garage were built in the center of the campus somewhere what would be the setback requirements there?

Ms. Wood – At the current time those are all pending. The reason why this is at hand is because the parking garage is being placed on a parcel that has street frontages on all sides. Internal to the campus we’d measure setbacks from property lines. There’s an area of campus that I think is 168 acres so that’s why the disparity between this and what would be internal to the campus.

Commissioner Cooper – If there was somewhere internal to the campus but on a street and they were completely surrounded by University property, what would be the setback there?

Ms. Wood – There wouldn’t be a setback.

Teresa Sobotka (Boise City Legal) – There seems to be some confusion here going on. The law is very clear that the law in place at the time an application is filed is the law that is in effect and right now that is a 20 ft. setback. The speculation about what the setback for that zone could be in the future is not applicable at this time. As you know even once you guys decide and make a
recommendation and it goes on to City Council, we just don’t know what it will be. What would happen here is the variances from the 20 ft. setback that is in place tonight, then if indeed the zone changes, then they could come back perhaps and ask for a modification of that variance or maybe they would not longer need it, etc. But the law that is in place right now is the law you have to go with, not some speculation about what the future law might be.

Ms. Wood – Which is the reason why we are encouraging them to be heard together and this be heard almost in couplet with the Zoning Ordinance.

Commissioner Fadness – But, we are beyond that.

Ms. Wood – The options before you, you can deny it based on the current standards, you can approve a variance citing those findings with 10 ft. setbacks. The garage can be built. It’s to what extent and are you going to grant relief or not. That’s the question before you.

Amanda Horton (Applicant’s Representative/1910 University Dr./Boise) – I want to address a couple of the issues raised tonight by the Commission. First of all I want to comment on legal counsel’s comment. She’s absolutely correct that’s why we are here with a variance request. Despite the fact that we are working towards having a Zoning Ordinance that deals, we believe, a little more realistically with our situation. We believe that the University and being the only user within and the only owner within the university zone and does have somewhat of a special circumstance. I want to go into the zoning surrounding the area and staff’s concern with the fact that there were, regardless of whether there were residential uses, the zoning was residential surrounding this property. The yellow indicates university ownership. The University Zone Ordinance currently requires that the University own the property before it can be zoned in the U zone. Therefore even though this area has been identified for years as our expansion area through the Boise City Comprehensive Plan, not all of it has been rezoned to the university zoning. As the University has been buying up property aggressively in the last 10 years and this whole area, and we’re talking about block 6, we own everything around it but for that one property, one triplex. That is the only residential zoned and used property and that is also in our area that we are going to plan on purchasing at some point in the future. We build these buildings with a long lifespan. We have to look forward. We can’t wait until every property is purchased around us. We have to meet the demands we have today. We would ask that you would look to this despite there’s a one multi-family, but the rest of the property, despite even some of it being zoned residential, it will soon be zoned under the U zoning once we get the application in. That’s the only thing that’s been holding that up. In that regard we do not believe that this building will have an effect on residential property in the immediate vicinity.

Ms. Rearick – This is a drawing of the proposal as submitted. We took the City ordinance and took a look at the clear vision triangles. We find that they actually work.
Mr. Sullivan – All of the vision triangles work with the garage with the exception of the one on the northwest corner which encroaches within the northwesterly column about 6 inches. All other triangles work within the proposed plan.

Commissioner Cooper – Is it’s the applicant’s preference to hear this tonight as opposed to deferring it along with the other applications?

.... inaudible.

Commissioner Fadness – Tonight it is.

Commissioner Wilson – Legal did point out that even if it was heard with the other ordinance those laws still wouldn’t apply yet because the other ordinance hadn’t been approved before this application came in. It sounds like it wouldn’t make that much of a different.

COMMISSIONER WILSON MOVED TO APPROVE CUP06-66 AND CVA06-29 WITH A CHANGE THAT THE SETBACK ALONG LINCOLN AVENUE BE 10 FT. INSTEAD OF 5 FT.

COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Wilson – I understand what BSU is trying to do with moving towards a more urban setting for the University, but I think that a 5 ft. setback along a building this high is simply too small regardless of what the goals are. For making a finding to approve the variance I think that there’s not necessarily a hardship on the property, which is what’s tough about this variance because there really is no hardship on the property and that’s usually the goal standard that we go to but, in my mind what I’m thinking about is that because this is the U district and it is a special use area, we can make some exceptions to our standard rules. I did feel that 5 ft. was just a little bit too skinny on that side and that we would want more room for sidewalk, trees, and things of that nature. I was also unconvinced that with a 5 ft. setback on that one side of the building that we would be able to address the vision triangles appropriately. One of the things that goes on a lot at the University area is that there is a lot of bicycle and pedestrian traffic in addition to the vehicular traffic so I think we need to really make sure that people can see around those buildings and move around safely.

Commissioner Cooper – I’m kind of torn about this because I agree that Boise State needs to become a more urban campus. This particular spot is very difficult. I’m glad to see that the University has acquired all the land around it and that helps, but I’m just not sure. I’m an architect and I’m not sure that they would lose that many spaces with this reduction but I know you would lose at least one row or a change to diagonal would also cause you to lose spaces. I seconded the motion and at this point I am inclined to support it.
Ms. Sobotka – You need to make some findings before you vote. It sounds like Commissioner Wilson is focusing on the special exception and she certainly stated what benefits the 10 ft. setback would give, but I didn’t really hear reasons for the special exception in the university district.

Commissioner Wilson – I’m not prepared to make those statements at this time. I just wanted to start a motion so we could talk about it.

Commissioner Fadness – I appreciate Commissioner Wilson’s attempt. I’d like to hear from the University what impact this compromise proposal would have. I do think the University makes a very good case that they are an exception. They are in the process of acquiring properties all the way around them. Their drawings seem to indicate ample space. If it’s typical to some of the setbacks downtown, I think there’s plenty of room for biking and walking. I hear more complaints from people in the BSU neighborhood on parking, especially when special activities are going on, football games or concerts. Those are the complaints I hear is that there is not adequate parking so I’m concerned about any proposal that limits parking because I think that’s a real problem on the campus. I probably would support the motion because I know that there will be a Zoning Ordinance amendment that might address this further and the University probably could take that route so I know that there’s a chance for an escape clause for them so to speak. I would like people to consider what I think the real problem is on the campus which is parking. I think the University is trying to make an honest attempt given their situation to address that issue.

Ms. Sobotka – I am a little concerned that you have all gone with the motion on the table as 10 ft. and that really wasn’t ever addressed by BSU. I think you do bring up a good point there. What I’ve seen happen many times is you can put the motion on hold and reopen the hearing to address that specific question only if you’d like to.

Commissioner Wilson – Before we get into the details of the motion I would still like to hear from some of the other Commissioners. If we seem to be going in a good direction, if this is something they want to pursue before we spend a lot of time on it which is why I didn’t go into detailed statements all the legal requirements we need to make.

Commissioner Russell – I guess I also see the issues that BSU is dealing with parking. I understand the situation that we’re in and that they are kind of up against the wall here with not being able to meet the required setbacks. I guess a couple of things that I’m struggling with is first what the hardship is. I don’t think we’ve stated that nor do I think we can. The second thing is I guess if we determine through some of the future things that are going to be happening with some zoning changes, etc. that maybe it’s okay to allow this parking deck to be installed, I do think that it’s critical that we insure that appropriate vision triangles are implemented because I do think that it’s a safety issue. I know it seems like kind of a trivial item sitting up here and looking at it on a piece of paper, but I can tell you that particularly when you get into buildings of this height and areas that are tights like this and buildings that are very close to the curb that
vision triangles are a serious issue. Case in point is going to some of the parking decks downtown and drive out into the street and see how many pedestrians you almost run over as you are crossing the sidewalk there because you can’t see left or right and we have blinking and flashing signs there. I think that in most cases we are meeting the vision triangle requirement but I think that it is absolutely necessary that we do meet it if we do decide to allow this variance.

Commissioner Cooper – I think with the motion that requires the additional setback on Lincoln we probably would meet the vision triangle.

Commissioner Russell – If that is the case I’m fine with that but I think it needs to be verified that that is the case.

Commissioner Fadness – I guess I’m hearing some sediment that we’d like to hear from Boise State as to whether they concur with us on that.

Commissioner McLean – Do we have a sense of how many parking places we would lose if we move this to 10 ft?

Commissioner Fadness – No, that’s probably one of the things we would want to hear from Boise State. I think with that I’m going to re-open the public hearing with a caution that we can only address that issue. I can’t open the public hearing to address any other issues. What we would like to hear is the impact of a 10 ft. setback on the south side, the impact that would have on parking and vision triangle.

Ms. Rearick – If we go to a 10 ft. setback there will be clear vision triangle. It sounds like 20 ft. is the trouble.

Commissioner Fadness – So you would still get the same amount of parking spaces as you would have with 5 ft.

Ms. Rearick – 10 ft. would be acceptable.

Commissioner Fadness – You are confident the clear vision triangle is met.

Commissioner Wilson – Is staff in agreement with that that there would be a clear vision triangle if there were a 10 ft. setback?

Ms. Wood – Yes, the clear vision triangles would be maintained and also landscape area.

Commissioner Russell – If the applicant has some idea of the hardship associated with the variance, I wouldn’t mind hearing it.
Kevin Satterly (Representing the applicant/1910 University Dr./Boise) – Hardship, does it meet the standard of needing a variance in this situation– 2 reasons. First of all is in the actual statute regarding the Land Use Planning Act there is a provision, Idaho Code, Section 65-28 that states that when the State of Idaho becomes subject to local land use ordinances that the needs of the State must be taken into account with regard to the plans and ordinances adopted by the local government. Specifically, in 1997 when the University adopted its master plan and the City encompassed that plan into the Comprehensive Plan, it was that this area (depicted on the power point) would eventually become all owned by the University. In the last 10 years there has been a steady progression that this entire area will eventually become Boise State University as the State Board of Education has stated as the goal of the University and the City has agreed is part of the Comprehensive Plan. Taking that into account, the hardship is zoning an area within this part of the University, while right now having a few adjoining landowners, currently over the next few years will not have adjoining landowners. In fact what we are doing is we’re going to be making zoning decisions now that 3, 5 and 10 years from now will be 600 ft. interior to campus and that is the real issue. The real hardship is that Boise State University is expanding with increasing enrollments in 9 out of the last 10 years and the State and the City have agreed that this area should become interior to the University boundary. Given all of that, it creates a situation where some variance different from the applicability to every other land developer who develops property, sells it and moves on, the University should be treated differently as the State ownership that is going to exist in perpetuity and that is part of the Comprehensive Plan and both the University and the City to accomplish that same goal. That is what I have to add to the hardship issue.

Commissioner McLean – Since the motion on the table doesn’t decrease the number of parking spaces that this will create, I will support the motion.

Commissioner Wilson – I will step through the criteria and findings then for the conditional use and the variance. The location of the proposed use is compatible to other uses in the general neighborhood, in fact the neighborhood is becoming a university district as we saw from the historical presentation, so the proposed use is not going to place an undue burden on transportation or other public facilities in the vicinity. In fact, I think it’s going to remove a burden that’s been on the neighborhood for quite some time and is going to help to relieve that so I think that’s an important finding to make. The site is large enough to accommodate the proposed use and with the increase in the setback on the west side to 10 ft., it will accommodate landscaping, vision triangles and other features that are required. If the proposed use complies with all the conditions of approval it will not adversely affect the other property in the vicinity especially since the other property is going to become a part of the University. I think it is in compliance with the goals and objectives of the Comprehensive Plan because this whole area is the University area. For the variance specifically, the granting of the variance doesn’t conflict with the spirit and intent of the Comprehensive General Plan for the City. In fact I think it assists that because we are moving parking and moving some of these uses out of the neighborhood and into the interior of the campus which I think is an important thing to do. The hardship identified with this is that the University is simply growing faster than the zoning can keep up with it. At
this point I think it is important for us to look to the fact that all the surrounding uses, with the exception of one parcel, are under State ownership and that that is going to continue to change those uses adjacent to it. The exceptional circumstance that I would cite is that the building does need to happen for a lot of the other reasons that we went through in the conditional use permit to relieve the parking around the neighborhoods and to increase the parking available within the University itself. So the exceptional circumstance would just be that the growth is just ahead of what the zoning can keep up with right now. I don’t believe that the granting of this relief is going to be detrimental to the public health and safety and I think that by going to a 10 ft. side setback on the west side, that will improve the safety of this project because that definitely was in question before.

MOTION TO APPROVE CUP06-66 AND CVA06-29 CARRIED UNANIMOUSLY.

CAR06-00045/Conger Management Group
Location: 10121 W. Overland Road
REZONE 5 ACRES FROM A-1 TO N-OD.

CUP06-00074/Conger Management Group
Location: 10121 W. Overland Road
REQUEST FOR A PLANNED UNIT DEVELOPMENT CONSISTING OF 32 RESIDENTIAL UNITS AND 2 OFFICE UNITS ON 4 ACRES LOCATED IN A PROPOSED N-OD ZONE.

SUB06-00070/Woodpark Subdivision
Location: On the south side of Overland Road east of Countryman Dr.
38-LOT RESIDENTIAL/COMMERCIAL TOWNHOUSE SUBDIVISION

Commissioner Van Ocker will be abstaining due to a conflict of interest.

Cody Riddle presented the staff report with a recommendation of denial.

Frank Lee (Applicant’s Attorney/601 Bannock St./Boise) – As I mentioned to you in the letter that you all received, we are disappointed that the staff has made the recommendation that they have when it appears clear to us that this project furthers the Comprehensive Plan, major elements of it, and is exactly the kind of project that this area needs. The guidelines in the Comprehensive Plan are intended to help you consider a wide range of issues so you can make wise planning decisions considering as many factors as are appropriate for the site and the area. These guidelines, like any planning instrument, are naturally and precise and require judgment and flexibility in the interpretation. But the rules aren’t fast. The rules give you, the Planning & Zoning Commission as well as the City Council, the discretion to apply these in a way that works the best for Boise. The staff has recommended denial for the reasons you’ve just heard. We disagree with staff and feel that this development complies with the Comprehensive Plan and is compatible within the area. This project is an infill site of 5 acres located on a major thoroughfare that is scheduled to be 7 lanes wide, a pretty big road by any standard. The project
is within textbook walking distance, i.e. a quarter of a mile, to the center of a designated community activities center with substantial retail and employment opportunities. I have a map that I’ve shared with staff that identifies the project site. This is a vision map from the Comprehensive Plan and it identifies the project site in relation to the Five Mile/Overland community activity center and you will see that it is immediately adjacent to it.

Commissioner Fadness – I’ve received from Mr. Lee a vision map with the project site and surrounding uses.

Mr. Lee – Our analysis of the needs of this area and the public’s desire for urban living lead us to believe that this is not the area for more 3-units per acre lots. That’s not what the public really is looking for in an area like this and that’s not necessarily what the City of Boise needs in an area like this to activate the activity center. Instead, we believe that this site is well suited for the kind of urban living that we will present tonight, the kinds of structures and the kinds of buildings that you saw attached to the letter. The initial meeting with staff was actually very favorable to this. Initially when we were looking at how to zone this sort of property and we looked at the compatibility matrix we saw the N-O. We saw that the N-O allowed the kinds of densities that we thought were appropriate in this particular area based upon our site looks, our site inspections. When you look at the actual designation for this particular area, and I’ve got a copy of the land use map with the project site identified on it.

Commissioner Fadness – I’ve received a land use map of the site and surrounding area.

Mr. Lee – This is another example of sometimes comprehensive plans are not precise in some of the directions that they give, but provide opportunities for you to use discretion and judgment in finding out what’s the right thing to do. On this particular site you can see, on this map, the project site indicated. It is an estate density which is on the south side of Overland Road, but it is immediately adjacent to medium density designations which are right across the street. You can see the relationship of the site to the commercial center to Five Mile and Overland and you’re just seeing one-half of it, you’re not seeing all of it. There is a commercial center and another development. There’s the church with some L-O lots there, then the property. This is the natural progression out from the commercial activities center to this site which is going to have neighborhood offices as well as residential. This actually fits within the land use map for the City of Boise. Our team has designed some medium density homes that achieve compatibility with the area through thoughtful design and attention of those elements that make these homes good urban neighbors. I can tell you that the developer here is a big believer in good thoughtful design going a long way to solving some of the issues that zoning does not solve terribly well. Zoning’s blunt instruments are setbacks, etc., but good design can help mitigate a setback and mitigate density far better than some of the blunt instruments that the Zoning Ordinance allows. I think well designed homes like this in this area is something that can be made compatible to the adjacent residential and also fits in very well with the City’s plans for this kind of area. The homes have attractive elevations with visual diversity, quality materials, and varied rooflines. Please take a look at the plans that you have in your packets attached to the letters. They are
close to the street and have reduced number of driveways with garages tucked behind. You will see that these homes are not the standard medium density houses built elsewhere in Boise. They are well designed homes that fit into the area and form a little neighborhood and support urban living near an activity center. Going into staff’s reasons, the staff’s first primary reason for recommending denial is that the broad stroke of the land use designation for this area, which is 3 units per acre even though important goals favor a medium density project, staff’s recommendation puts too much weight on the broad strokes of the Land Use Plan. It doesn’t really focus on the other important factors. Estate density allows neighborhood office and allows medium density residential. It gives you guys the discretion to make the kind of decisions about what’s really best. The project site is adjacent to medium density land use areas. The project site is adjacent to the L-O zone and within textbook walking distance of the center of the activity area. That makes it close enough for it to help activate that in a way that other projects necessarily couldn’t. Though good design, through careful, thoughtful design, compatibility can be achieved with the adjacent residential. The second reason that staff recommends denial is that Policy 12 of Objective 8.1.13 essentially states that properties south of Overland Road should be densities of 2 to 4 units per acre. Again this is another example of the imprecise nature of good planning documents like this. This, for planning purposes, really isn’t south of Overland Road. It’s physically located south, but the influence of this is the 7-lane road of Overland Road. The influence of this property isn’t really the residential that’s in the proper area south of Overland Road. That’s what I think was the intention of that particular component of the Comprehensive Plan. I don’t think that they necessarily intended those properties that are adjacent to and really under the influence of Overland Road and adjacent to and under the influence of an activities center such as Five Mile and Overland that fall under this classification. I think that you have the discretion to balance that and go what’s better? If the answer is the activities center and the influence of Overland Road, you have the ability to go that way. We think you should. That basically brings us back to what’s really at stake here and the question is what’s right for the area, what’s right for Boise, what’s going to work in the Overland Road influence area, what’s going to work to help the activities center at Five Mile and Overland. We think this project does and we think this project is and will be, through good design, compatible with the neighborhood. We note that it’s in a Design Review zone, though some of you who know me know I’m a big believer in good design review, I think that the good aspects of this project will be achieved.

Scott Beecham (Applicant/405 S. 8th St./Boise) – I will give you a copy of the elevations which I believe you already have, an office elevation to show consistency in design as well as a rendered site plan. I do very much believe in this development pattern. We look for sites that we think work well with this. We had another project up tonight. It didn’t suit the needs so we developed it in a different manner, but I really do believe in medium to high density development pattern. I think it’s smart, I think it’s smart for Boise especially in this type of location. We are within close proximity to shopping, entertainment and employment, three very critical issues. What Frank pointed out is that this type of use can be approved through what’s in front of you today, through the existing Comprehensive Plan, the Consistency Matrix and the zoning. What it says is that it can allow similar uses as long as you achieve the scale and character so we keep coming back to design and the emphasis which Cody clearly pointed out is about design and how do you
make these uses fit into an existing neighborhood. Not just the residential side of this neighborhood, we also have an office and commercial environment. We’ve got Schucks across the street from us. That’s not a particular nice neighbor, but using this transitioning pattern we can transition from the north as well as from the west into this residential neighborhood, which by all accounts, Millcreek and Countryman Estates are very nice neighborhoods. They are well maintained. Countryman, there is a lot of improvement going on right now. You’ll hear from a neighbor that’s been very involved that’s doing a lot with her property and we appreciate that being a property owner in the neighborhood. We were very concerned with massing. We looked at it in three dimensions, modulation on the buildings, variation of materials, varying the building form and varied roof lines help make this work. We’ve got two different products, one is kind of a U-shaped courtyard and the other we’ve got 4 units attached back-to-back creating courtyards between the buildings. Each of these has pros and cons. We’ve maintained perimeter setbacks and we’ve designed a product that considers room placement, not just positive and negative space, not just the landscaping and amenities, but also room placement in order to maximize privacy on adjacent properties. I believe floor plans were included in your packets that would demonstrate that. Walking through the site we’ve got office that fronts onto Overland and addresses the street with parking tucked behind. The residential is to the south of that with our amenity side located at the terminus of Woodpark Avenue. This is by design. We don’t want headlights going into bedroom windows or living rooms. We want to create a nice visual experience. It is a small amenity? I think it is. I would agree with staff but it is appropriate to the use that we are proposing in the target market. We don’t expect to have a lot of children in this type of development. There aren’t large yard areas. What we’ve done is design nice private patio areas that people can look out to on the main floor. We’ve included this amenity as a gathering spot so that if people want to get together as a neighbor, have a little block party, they’ve got a shade structure, they’ve got barbecue facilities, they’ve got picnic tables and they do have some grass area. I think we have taken all of these points into consideration. We’ve met quite often with staff and with the neighbors. We understand and respect the concerns on all sides. We would ask you to look at the bigger issue and how does Boise want to develop and if not this type of location where you do have activity centers, you do have employment, where is this type of development appropriate? I respectfully disagree that the Comp Plan doesn’t allow for it. I think we just need to look at the policies that do support it and we need to promote those and promote smart growth.

Commissioner Fadness – I would note for the record that we’ve received from Mr. Beecham a subdivision drawing as well as one office elevation and two residential elevations.

Commissioner Wilson – I was just wondering if you could address the issue of amenities a little bit because you admittedly are just proposing one small amenity and for a development of this size we’re usually looking for two. Have you considered some other ideas for getting more open space or a different type of amenity in this area in addition to the one you are proposing?

Mr. Beecham – We considered it in great detail. What we we’re trying to provide is a product that is very low maintenance. It’s a lock and go type of product so maximizing open space on
the interior of the project was not a high priority. What was a high priority was good visual terminus to both streets. We also have a landscaped area coming in off of the existing Countryman, but also a nice street scene and tucking the parking back behind. In the past we’ve actually identified that as an amenity. With this development you have eight curb cuts for 32 units. There’s significant additional infrastructure required to build these. We think that is a very fair trade-off to get a good street scene, to get nice street trees on that. We didn’t try and maximize it for density sake. We tried to achieve a very specific product.

Commissioner Cooper – You’re product is sort of on the middle of the site with the back-to-back units. It looks like it either ends on Southland Drive and with the parking lots you’ve just kind of chopped them in half so that the exposed façade at the ridgeline and probably a story and a half of just vertical wall, is that correct?

Mr. Beecham – It would appear that way, but the units on the end would actually have to be redesigned. The roofline would be redesigned to accommodate that situation so it would have a much lower roofline than the interior unit. Important to note that we do have a Design Review overlay in the zone that we’ve requested. We do have an additional step to go through in this process. The product on the south I personally like better. It ended up being a much more thoughtful product in terms of massing. The product to the north, where they are back-to-back, is a product that you’ve seen similar product in a number of developments. It’s a product I saw in Seattle 4 or 5 years ago designed by Mithun Architects and it’s won national awards. It’s very well suited for empty nesters and we’ve tried to take that design a step further.

Commissioner Wilson – What about some of the other things like energy conservation measures, etc. Is there any kind of extra effort there that can be counted as part of an amenity?

Mr. Beecham – Absolutely. That’s something that we’ve talked about as an ownership group. We very much believe in the energy star and I think there’s even some green building practices that are now becoming very affordable and practical to implement. I don’t know how that ties into a condition, but we are certainly amenable to talk about that and would happy to put in writing.

Commissioner Russell – I would be interested to know what your argument is for having the street connect to Overland whereas in the last project you presented tonight you made a pretty good argument that you didn’t want to have another connector street there and promote traffic flowing through there, etc.

Mr. Beecham – In this situation we’ve a mix of uses. Terminating the roadway that comes out of Countryman Estates there in a cul-de-sac and then having the offices front onto Overland with a separate access didn’t seem to make a lot of sense to us or the staff planners. We actually talked about that. In addition, with Watersilk Subdivision we did have the other two access points into Millcreek that were designed as collectors. It was clearly a consideration of ours when designing the product and minimizing curb cuts. If you look at the aerial, there is a very direct connection
from Five Mile Road down Countryman and into our site. That makes a 90 degree turn but then direct access out to Overland. That’s an easy, logical cut through so that certainly makes us nervous. What we’ve chosen to do is try to design the turn interior to our side as tight as possible to slow that traffic down and we’ve also necked down between the office and the residential uses. We’ve necked it down and changed pattern in the pavement as you can see in the land plan to try and make a statement that you are transitioning from office to residential but to also slow traffic. I do not believe staff would be in support of no connection at this point.

Troy Van Houten (9720 W. Bridge Gate/Boise) – We really like what the Conger Group is doing here but we support staff with some of their concerns. One of the things that Millcreek Homeowners’ Association has championed over the years and has been very successful at with Black Eagle, Time Square, Union Square, is the berming issue. You will see with the elevation, the landscaping plan does not show any berming along the front of the development. Although my preference would be 6 to 8 ft. like Black Eagle, that’s not the tendency to be realistic and so we compromised on the Union Square Development, 2 to 3 feet and I don’t think that’s too far out of scope as we look at compatibility and continuity down the face of Overland. If this were to move forward, this would be the only modern piece of property developed in the last 10 years that wouldn’t have berming. We would request again when we look at detached sidewalks we look at berming that those components would be included. Most of the other projects have some type of an entrance. Times Square has the big clock tower. Mill Creek has the waterwheel. Union Square is going to have a large entry there. Black Eagle has the corner signs that are recessed into the berm. As you would drive into this development I would like to see something there, some type of signage or something there that would be built out of stone for compatibility.

Betty Bermensolo (Representing the Southwest Ada County Alliance/1970 Cannonaro/Boise) – I would like to spend time talking about what was brought to my attention. I was not able to go to the neighborhood meeting when this was proposed. But the concerns that I’ve heard from neighbors that were there comes back to more the difference in the mass of these buildings as opposed to some single story homes that they will be adjacent to. I would agree with Scott that everything can be mitigated somewhat with design and many times that’s all we have to hold onto is that the design, in the end result, will soften some of the impact of some of the density. We do feel that this could be a very attractive element for this area but we do agree with staff that the magnitude of the units that are being requested, the lack of functional open space for the number of buildings that are going to be proposed. I don’t presume to know how many people will actually live in those units, but I think that there should be more time spent in looking at an amenity that includes more open space. We’d love to be able to point to this as a good example of infill along Overland, but I think that we have a responsibility to look at the concerns of the people that already live there. I think that’s where I disagree with Mr. Lee. When you talk about balance I think that’s what staff is trying to achieve, a balance between the people that have been living there for some time and what is being proposed for a parcel that certainly could have increased density, but when you are tripling the density of the existing area I think there would be some question as to whether that would be balance if it were Mr. Lee’s neighbor. That’s why I’m here. I don’t live adjacent to this but I always have to look at the people that sometimes stay
at home because they don’t think it’s going to amount to anything to come down here. But there is a need for us to always come back to the Comprehensive Plan and say, as staff did, there does seem to be some protection here for those people that didn’t come tonight that have lived in those homes in Countryman Estates for some time now and decreasing the density, decreasing the mass of some of these buildings and providing an area that would be more in the way of adequate open space I think would go a long way to making this a project that we could support. We are always asking for Overland to look and feel less like Fairview and Franklin. One way that we do that is to try and have an element of some kind of berming. The City Council seems to feel that even in Union Square there could be pedestrian access taken off from a detached sidewalk. I have even been singled out before when I missed the boat or Southwest Ada County Alliance missed the boat on Overland Road in not asking for a detached sidewalk when these projects have come forward. Here again we would like to see some berming and something that protects pedestrian access but still invites people to an office area. Those are really the reasons that I feel that I don’t know if there’s any other Countryman Estate residents, but I did hear from those that did attend the meeting and those were the concerns that were brought forward. I hope that you will consider that likewise.

Joyce Barkus (10234 W. Southerland/Boise) – I live on the property that directly adjoins this property on the west. Throughout this process all the gentlemen from Conger have been very informative and have provided information to us. But I disagree 100%. This is not compatible with our neighborhood. Mr. Lee speaks about Overland becoming 7 lanes. We don’t know when that’s going to happen. That could be 20 years down the road. It’s not 7 lanes right now and even if it were to become 7 lanes it’s going to be harder and harder to get out onto it. It is now already. A 32 unit density with the neighborhood offices up front with one practitioner office, originally the plan was to have 4-plexes with two 2-stories and two 1-stories. We weren’t crazy about but that has now become 4-plexes with all 2-stories and it went from approximately 1,500 sq. ft. per house to 1,300 sq. ft. and some 1,900 sq. ft. 1,900 sq. ft. is plenty of house to have 2 or 3 kids. There might not be much of a yard, but there’s going to be kids and animals. Three of these units which are 6 houses look directly into our back yard. We have a large yard so we are going to lose our privacy completely. We’re not going to ever be able to see the morning sun ever again. I realize that progress takes its toll on all of us. We don’t object to building on the property, but not 32 units on a 3 acre parcel. We ask that you consider the area. It has historically been rural. The neighborhood itself is primarily retirees who have invested a lot of money in their homes. These homes are worth upwards of $200,000 to $250,000 many of them in the $400,000 and $500,000 range. Mr. Lee said it’s a transportation center. Granted Overland and Five Mile are very busy. There’s no bus service. The bus service was discontinued last year shortly after we bought our property. With the street that is going to go through Overland and we don’t object to that. We see the necessity for it, but it’s going to increase the traffic that’s going to turn off of Overland and try to beat that stop light at Five Mile. The design originally we had some 1-stories mixed in there which kind of help alleviate our privacy concerns a little bit. Now they are all 2-story and frankly they are looking pretty boxy. The 15 ft. setback is of great concern to us. This adjoins our side yard which has a 15 ft. to our fence. If they were to build a shed or anything or build anything on the back of their property...
and go to that 5 ft. they are going to be looking into our family room and down our hall to bedrooms. We don’t want that kind of density. We do welcome some building but we would appreciate you’d vote to deny that kind of a density.

Evelyn Grime (1611 Warren St./Boise) – I am not a part of this design team. As a proponent of infill design and understanding the issues before us with the City of Boise and how we grow, a concern with Southwest Boise is the general annexed and land use designation was estate density and this rural feel. I think that’s important because that was something that was compromised between the people in those neighborhoods at the time of annexation and with the growth of the City of Boise. We do have an activity center. We have an intersection. We have zoning also across the street that is going on. As I read in the staff report, we have under the approval process right now the PCD/DA zone across the street and we have also a responsibility in planning and in designing neighborhoods to transition from commercial uses to the lower density in neighborhoods. Just as a kind of an assist in melding of these two sides I thought I would offer my opinion for whatever it is worth. The existing Countryman, Millcreek neighborhoods I applaud for their cohesive effort in expanding their neighborhoods and making these connections. But I think also a planning tool to protect those neighborhoods is to have a difference of density between office use and low density housing. So the higher density proposed with this subdivision helps achieve that protective buffer between the offices and the commercial uses and the more spacious neighborhoods that are in effect. From a design element I would say that I think coming down the street whether you are coming from Southelerland or Overland, if you study the elevation pattern you really only see two homes at a time. I think that is a pretty effective design tool. If you look at the depth of this lot compared to the C-1D to the west and the church uses in the L-OD to the west, the lot depths of this is comparable to the lot depth of the commercial both north and south of Overland. So as an opportunity for an occasional infill development as we move into Southwest Boise, which isn’t as west as it feels, I think it’s good to consider some infill projects that are detailed well for a good fit. This is a hard one. Just some notes on the idea of planning and buffering and density and then also using those design tools I think is actually a commendable effort. It addressed the context of the intersection and where that neighborhood is growing.

Commissioner Wilson – In the staff report it talks about how N-OD isn’t really an appropriate zone for this because it’s intended to create an office use within an existing neighborhood. I was wondering if you were looking at approaching trying to do an infill type style development on this parcel, what zoning would you suggest?

Mr. Riddle – I believe if you refer to staff’s final recommendation in the report we suggested that N-O may be appropriate. That some office use near Overland would be appropriate but we would like to see a transition to the single family residential lots to the south and to the east and the southern half of the western property line. That could be achieved through a modified conditional use application that could possibly include a development agreement so it’s tied down even further.
Commissioner Wilson – I’d like the applicant to address the detached sidewalk and berming question that came up.

Mr. Beecham – At this point what we’ve done is a fairly general landscape plan. What we propose is a 30 ft. landscape buffer. It doesn’t address berming per se, but you’ve got two different matrix. One is horizontal and the other is a vertical offset. We can accommodate some berming tying into the 6 or 8 ft. berms obviously does not work for a commercial environment. We can get a little bit of modulation within that 30 ft. and are happy to do so. What we need to preserve is some open view corridor into these. We’ve tried to concentrate on better architecture rather than berming and intensive landscaping there that would block the view. In terms of the sidewalk we have ample room there to do a detached sidewalk. I’ve got to tell you after walking the site a number of times I do not disagree with these guys. It is a little daunting to walk on a 4 ft. sidewalk when cars are going past you at 50 mph. It’s a 40 mph speed limit, but there aren’t many going that speed. We’re happy to do that. It’s really an issue with ACHD. I know City Staff is maybe on the fence because it is in opposition to ACHD, but we’re happy to do it. It’s at our cost. The concern is future public cost of having to remove that improvement. The neighbors have brought some great points. We have met with them on a number of occasions. We are definitely sympathetic to the concerns. We made an extra effort and think we’ve done a really good job of working with the architecture and working with density by design. Is privacy an issue in these transitional areas? I think often times it is. If you look at our floor plans we’ve tried to place rooms in such a way that you don’t have public spaces and rooms overlooking fence lines. I can tell you with regard to a compromise type situation we did go back to the drawing board and instructed the architect to play close attention to that because it is a real issue in people with single story homes that have enjoyed this rural area that’s turned urban on them and a lot of that activity has been very recent. We are compassionate to that. Regarding signage, we believe sense of place is very important. We like to achieve that through design. I think signage is a subjective thing. Sometimes it becomes very contrived and detracts from a community. We would like to do a very classy understated signage at the entry and we will do that. That will be under separate application though. We respect the issue of mass. In three dimensions we’re very happy with the product that was developed for this. Is it final? No, we still need to go through the final tweaking process and through the Design Review process. I would be the first to admit, even though I think we’ve done a good job, there’s room for improvement and I think we can work with the Design Review Committee to get there and we’ll continue to work with the neighbors. Lack of open space, again, it’s by design. It becomes a burden either through individual maintenance or cost of maintenance at some point. What we prefer to do is put better attention to detail and design and bigger plant material and nicer detailed plantings in these types of developments. We’ve done it in the past and it’s been very successful and we’re confident that we can do that here as well.

Mr. Lee – There are two important points not to lose sight of. First is compatibility can be reached through good design and it is a great tool for urban cities, like this one, to use. The neighbor talked about my neighborhood. Well, there actually is a great example of compatibility through good design in my neighborhood. I live over by Manitou Park and there are come
condominium projects that caught the ire of the neighborhood. Some people, and I was one of them, saw that what they were proposing was something used windows and walls and good design to be good neighbors, respected privacy, added to the neighborhood. It’s one of the neighborhood’s better projects now. People like it and hardly even notice that it’s denser than that which surrounds it. One of the neighbors brought up that ACHD right-of-way is 20 years from now. I’m not so sure I believe that. They are buying a lot of right-of-way. They are paying full value. This was once a rural area. It’s urbanizing. 20 years isn’t that long of a period in a planning horizon when you are talking about buildings that will last 100 years. 20 years will come sooner than we think. Now is the time to start thinking about the way that this intersection, this area will be 20 years from now because these buildings will be here 5 times long than that and the question is what do we want to see in this area of Boise? How does Boise want to grow and how will Boise grow over the next 20 years and I think that this project fits in very well with what the vision is of Boise with the type of places that people want to live and this particular area for this location. It’s the kind of growth that we need more of in Boise and it’s the kind of growth that works well. It’s the kind of growth that this Commission should support and approve. We mean it when we say good design. The discussions here will be picked up by the Design Review Committee and we want the Design Review Committee to hold us to it. We will meet our promises.

COMMISSIONER RUSSELL MOVED TO APPROVE CAR06-45. COMMISSIONER MCLEAN SECONDED THE MOTION.

Commissioner Russell – I think the applicant has provided us with a nice product. I have some things that I would like to deal with under the CUP, but I think as far as the rezone goes I think that it does meet the intentions of the Comprehensive Plan and I support the rezone.

Commissioner Cooper – After a lot of thought I’m going to support the motion. After looking carefully at the site plan I think this parcel is uniquely situated to be thought of as a buffer or a transition from the commercial to the residential areas and so I think the increased density is appropriate in this spot.

MOTION FOR APPROVAL CARRIED WITH COMMISSIONERS VAN OCKER AND BRUNELLE NOT PRESENT.

COMMISSIONER RUSSELL MOVED TO APPROVE CUP06-74 WITH AN ADDED CONDITION TO LIMIT THE DENSITY TO 24 RESIDENTIAL UNITS.

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Russell – I like the project. I like the architectural renderings that the applicant has provided. I think that they’ve gone to a great effort to create a good project. The issue that I do have is that I think that 32 units is not necessarily in agreement to some of the surrounding conditions that we have in the adjacent neighborhoods. I think we saw a project presented earlier
tonight that really took a hard look at being compatible and I think that although we do have a transition area here, I think that we should go with some higher density. I think that 32 is a bit much. I think when you look at the adjacent properties that surround this piece, I’m concerned about some of the wall effect that’s going to be created, particularly with these units that are in the middle that have these long walls that are adjacent to the east and west properties. I agree with the applicant that these units on the south might be a bit nicer and I’m curious if we can’t take that design, eliminate 8 units and disperse it to the north and get a little bit better layout that has some better space in between the buildings. It will have less impact on the property to the west. I’m definitely concerned about these 3 units just north of Southland Drive on the west boundary adjacent to this property owner that spoke tonight. I’m concerned about the impact that’s going to have. I’m also concern about the impact it’s going to have to the properties to the east. I’m of the opinion that we eliminate 8 units, go back, do a little site design revision where we’re going to create ourselves a little bit more landscape area and have just a little bit lower impact on the adjacent residential area. I like the way that the commercial area has been designed. I don’t really see a dire need for a berm. I do like the idea of a detached sidewalk. I think some good points have been made tonight regarding detached sidewalks, but I think that in going through the Design Review process and addressing the landscape issues we can leave the berm up to Design Review. The only way that I can support the project is if we do eliminate 8 units and look at a little bit different design as we move forward.

Commissioner Wilson – I seconded the motion that we could get a discussion going. One of the things I’m concerned with about the motion that has been made is that it really substantially changes the project. Taking out 8 units is a pretty good chunk of it. I’m reminded of what we did with Crescent Rim when we wanted them to decrease their overall project by about 10%. The way that we ended up having to do that, which is kind of messy but it’s the most straight forward for us, was denying the project and then recommending that they come back with a lesser density and then they came back with a different site plan that we could then look at. I’m a bit uncomfortable giving an approval for something that we’re not really getting to look at because I think that the developer has made a pretty strong case for why they’ve chosen this density and why they brought this forward to us even though they knew that staff was going to prepare a denial for it. I have a really hard time approving it without having the two required amenities in writing. I think that’s a fundamental flaw with it and if they would have come to us saying that instead of just one amenity, they’d like to go ahead and propose two and the second one is going to be that all these are going to be built to energy star ratings or they are going to put solar power on the roofs, or something like that. There’s a lot of other things that they could do in addition to open space to help out with the amenities. One of the my other concerns with the project is that the 15 ft. side yard setbacks abutting the other 15 ft. side yard setbacks on the west side. In the previous application we heard we approved 15 ft. setbacks because the adjoining properties had pretty substantial setbacks and so I felt that gave a lot more space, especially since we are going from a single story neighborhood to a 2-story neighborhood. There are some things that I am still concerned with too and I think if we have enough concerns we should probably go down a different path.
Commissioner McLean – I started out pretty skeptical with the whole project but with the way this was presented I’m actually more comfortable approving it as presented as opposed to start taking it apart and create requirements. I actually call to mind a couple of other projects where we started taking them apart, thought we were going to see something very different because we thought it was too dense. We asked for 1-story, different things. It came back very different and ended up not being at all what I had hoped to see happen. I’m going to vote against the motion as long as it requires changes to this plan.

Commissioner Cooper – I too think this one is kind of pushing it a little bit. I generally would support a dense project on this site. But, I think Commissioner Wilson has good point about the fact that we’re making a substantial change and we’re not going to see it again. That gives me some discomfort so I probably won’t support the motion.

COMMISSIONER RUSSELL – I WOULD BE WILLING TO WITHDRAW THE MOTION IF THE SECOND CONCURS.

COMMISSIONER WILSON – I WILL CONCUR.

COMMISSIONER RUSSELL MOVED TO DENY CUP06-74. COMMISSIONER COOPER SECONDED THE MOTION.

Commissioner Russell – I definitely appreciate some of the things that Commissioner Wilson has brought up as far as not being able to see the project again. My view on this is I have a hard time approving it with 32 units. I definitely am concerned about the impact that these buildings are going to have on the adjacent single family properties. I think in my mind I could easily support 24, but I do agree that we probably should see the site plan. I recommend that we stick with some of the same architectural styles if this should come back. I don’t think that this meets the criteria and findings that it needs to meet, in particular that I don’t think that there is any way that this project, in its current form, is not going to adversely affect the adjacent properties. I can’t support it.

Commissioner Wilson – I’m sorry that this ended up going the way of denial because I’m with Commissioner Cooper. I’m really into density and I think that the best way to preserve any kind of rural feel around the City is to urbanize as much we can within the City and I would also like to see instead of Overland going to 7 lanes, I would love to see some actual transit out there. It would be great to bring in a trolley or something and to do that you have to have the rooftops and the density. From that perspective I completely support the project. The problem that I have is the 15 ft. setback with the 2-story adjacent and if we could even just step down some of those units that are on the outside edges of the site plan, I think that would go a long way. I don’t fully agree with Commissioner Russell that we need to dramatically decrease the density, but I think that you could drop some of that height if you’re intending to stick with the 15 ft. setback and then come back to us with something that is substantially different that we could reconsider within the year’s timeframe so you guys wouldn’t have to wait. I think just the way that it is
proposed that staff is right on and it doesn’t meet enough findings for us to be able to approve it tonight.

Commissioner Cooper – I think architecturally I wouldn’t change much other than reducing the number of units. I’d recommend that with that reduction that we add that second amenity. It’s a pretty straight forward requirement that we’re supposed to meet. I would recommend not berming or minor berming. I think that these berms on Overland just basically give up any pedestrian friendliness to that street and give it to the automobile. I think you need to see the fronts of those buildings along Overland.

Commissioner Fadness – I’m very much in support of what Commissioner Cooper said about not changing the design too much. I really like the design. I like the approach of the visual of just the two homes from every angle. The density is the issue but I do appreciate the design and I hope that you don’t have to stray too far from that. I agree very much with Mr. Lee that he is a protector of good design. I’ve seen him in Design Review and so I trust that ultimately it will be a project that hopefully will be as good as its design if not better.

MOTION TO DENY CUP06-74 CARRIED WITH COMMISSIONERS VAN OCKER AND BRUNELLE NOT PRESENT.

COMMISSIONER WILSON MOVED TO DENY SUB06-70. COMMISSIONER RUSSELL SECONDED.

Commissioner Wilson – SUB06-70 was tied to CUP06-74 and since we denied the CUP, we also denied the subdivision.

Commissioner Russell – In my opinion the subdivision is proposing 32 residential units and to me that density is too much. I think based off of that I’m not in favor of it. I think that we have determined it’s just not compatible with the surrounding area. I definitely don’t support the design of the subdivision.

MOTION TO DENY CARRIED WITH COMMISSIONERS VAN OCKER AND BRUNELLE NOT PRESENT.

CAR06-00047/Boise City
AMEND TITLE 11, CHAPTER 11 OF THE BOISE CITY ZONING ORDINANCE TO ADD A DEFINITION FOR ILLEGAL NON-CONFORMING SIGNS, MODIFY THE VARIANCE SECTION, ADD BENCH SIGNS TO THE LIST OF PROHIBITED SIGNS, PROVIDE PROCEDURE FOR REMOVING UNLAWFUL SIGNS, DEFINE RESPONSIBLE PARTY FOR PURPOSES OF ENFORCEMENT, MODIFY PROCEDURE TO REVOKE SIGNS, MODIFY PROCEDURE TO ABATE AND DISPOSE OF UNLAWFUL SIGNS AND PROVIDE PENALTIES FOR VIOLATIONS.
Glenn Lexa (6477 Fairview/Boise/Idaho) – I would like to say that I agree with this. We’ve been in the bench business for about 2 years now and I think everybody who is driving around town can see them. The one thing that I do want to go over is that a lot of people see these benches, especially the ones that have pictures in the back. What they are showing here, benches like this, these pictures are taken at times when there aren’t people sitting on them. If you are driving around in the morning there are people who take the bus. There are thousands of people who we’re trying to, as a city, have people who want to take the bus and go around and use transportation other than what we talked about on Overland which is a whole bunch of traffic and things like that. These bail bondsmen benches and things like that are ones that are dropped off on the corner. These are all new benches. The majority of the benches that we advertise on are benches that have been around for 20 years at that same location. What I think they haven’t done is taken into consideration the people who actually ride the bus. I agree that there needs to be some sort of ordinance on signage and benches. The catch 22 on this is that Boise City currently does not have it open for getting permits for signs on benches. During the past year or two every time I’ve talked to Larry at Ada County and asked if the permitting process has opened, I’ve been told no it hasn’t. If you want to permit these, I don’t have a problem coming in and doing so. I think to do so would take care of a lot of our problems. The problems are situations where people aren’t like us. We have insurance on these benches in case somebody gets hurt. We employ the ARC and they change out the signs. I’ve had things like promoting the Lions Club. If you go back about 2 or 3 years ago, Lamar who actually owned the benches at the time, left them. You saw them broken down. They were left out there for 2 ½ years because of this. I think that this should be deferred for looking at the implications of what happens if these are removed and people cannot sit on them for the buses and then take in all the other considerations.

Mr. Spjute – A part of the problem is the fact that there’s no regulation at all. Signs have been dropped here and there without any regard to whether there’s a bus stop or a bus route. I will quote from a letter I just got from Kelly Fearless who is the manager of the Valley Regional Transit which runs the bus company. She said: “We agree with the language as proposed. The ordinance, as we interpret it, will allow us to establish a bus stop system to include advertising benches as permitted by the Planning Director. It is critical to the smooth operation of our bus system to only allow transit benches at transit stops. We believe this ordinance will allow this to occur.” This ordinance does not actually allow it to occur, but the City’s intent is that once we’ve got this cleaned up, and the only way we could come up to cleanup some of them was to cleanup all of them. The only way we could do that was to enact an ordinance that makes it very clear that these types of signs and advertising on benches are illegal and we also clarified the enforcement procedures. What the intent is then is to then come back with an ordinance amendment that will do as Ms. Fearless suggested that will allow benches to be located at transit stops. The bus system is going to move from the system it has now where it will stop at every block or for anyone that stands and waves their hand, they are going to move to a fixed stop system where the bus will only stop at designated locations available to anyone that wants one on a route map. Those are the locations where Valley Regional Transit would enter into an agreement with whomever to but in a bus stop and allow advertising on it. Then the revenue
stream for the permitting of those benches would go to Valley Ride where it belongs. So our intent is to cleanup the mess that is out there now and we intended to sort of displace some of that to you with some of these photos. You’re aware of them anyway. We’ve met for some time now with Valley Ride, with the Ada County Highway District, our own Legal staff and the Mayor’s Office and a few private individuals and this is the way we thought it should be best addressed. It’s not going to be an easy fix even with this because there’s a significant enforcement problem when suddenly we go out and enforce these signs. Most of them are not legal now. The ordinance simply doesn’t allow this type of signage to occur especially on sidewalks. But the fix that we intend is to only have benches that are permitted by the City that are located at transit stops and they are located in accordance with ADA requirements and our own clear vision triangle, etc. These two on the overhead now, they are apparently located on private property with or without the permission of the owner of that property. Most of them are located at least partly on the sidewalk and in many cases they obstruct the minimum 5 ft. width that is required for ADA. I just wanted to give you the background of how we got here. There is some concern out in the community. It has been expressed by some of the Council members. I’ve received some E-mails and telephone calls from people who heard of what’s going on and without exception, they wonder why it took the City so long and are anxious to see some cleanup take place.

Commissioner Fadness – Am I correct that you want an addition to Section 11-11-12D.2a which is on page 7 of 12 in our packet?

Mr. Spjute – You are correct.

Commissioner Wilson – There are benches right now that are actually being used at bus stops. How much overlap is there going to be between enforcing this and adopting the new ordinance so that people who actually need the benches can still be using them? What do you anticipate there?

Mr. Spjute – We intended to build in some allowances for removal of the signs before we go out and start following all those enforcement procedures that are in 11-11-10 and 12 there. As far as continuing to provide something, I hadn’t really thought about that. Nobody is a more faithful bus rider than he who stands before you now. The only times I don’t ride the bus home is nights such as tonight when you’ve kept me to long to do so. I’ve never sat on a bus bench myself, but there’s not one at my stop where I get off to walk home. I suspect there is a need, but a lot of the times the benches are not located where people are getting on the bus. There could be some overlap. We could get the ordinance done right away, certainly before we get all of these cleared up, but the intent is that they are not at the locations they need to be now. Some of them may be but they are going to be at locations that are approved by the City and by Valley Regional Transit. We can certainly do that as quick as we can but we hadn’t built in anything specific.

COMMISSIONER COOPER MOVED TO APPROVE CAR06-47 WITH A CHANGE TO PAGE 7 OF 12 OF THE STAFF REPORT, ITEM D.2.a TO READ: WITHOUT PRIOR
NOTICE, THE DIRECTOR MAY SUMMARILY ABATE ANY SIGN UPON A PUBLIC STREET, SIDEWALK, RIGHT-OF-WAY OR OTHER PUBLIC PROPERTY WHEN THE SIGN IS IN DANGER OF FALLING OR POSES A SERIOUS THREAT TO THE SAFETY OF PERSONS OR PROPERTY, OR IS IN VIOLATION OF APPLICABLE CITY, STATE OR FEDERAL LAW.”

COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Cooper – I think there may be an unfortunate short-term situation where there may be some benches that people have been depending on that are going to be gone. But I agree with staff that this seems to be the most straight-forward way of cleaning this up and getting a better situation in place.

Commissioner Wilson – I would request that staff please process with all haste to make sure that we get benches out where people need them.

MOTION TO APPROVE CARRIED UNANIMOUSLY.

Planning & Zoning Commission Minutes of August 14, 2006. – COMMISSIONER WILSON MOVED FOR APPROVAL. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Approved:

_________________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission
Hearing Minutes of
October 2, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice-Chairman, Doug Cooper, Andy Brunelle, Brian Ellsworth, Doug Russell, Amber Van Ocker, Lauren McLean, Tony Orman & Tony Blahd.

Staff Members Present
Angela Wood, Susan Riggs, Carl Miller, Cody Riddle, Bruce Eggleston, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CAR06-00043/ Lytle Signs – COMMISSIONER VAN OCKER MOVED TO DEFER THIS ITEM TO AN INDEFINITE TIME. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-000087 / Independent School District of Boise – COMMISSIONER WILSON MOVED TO DEFER TO NOVEMBER 6, 2006. COMMISSIONER ELLSWORTH SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CFH06-00039 & CFH06-00040 / George O-Neal /Charter Builders – COMMISSIONER ELLSWORTH MOVED TO DEFER THIS ITEM TO NOVEMBER 6, 2006. COMMISSIONER BRUNELLE SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00081 / Brad Klahr – COMMISSIONER WILSON MOVED TO DEFER TO NOVEMBER 13, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CAR06-00051 / Harris Family Limited Partnership – COMMISSIONER VAN OCKER MOVED TO DEFER TO NOVEMBER 13, 2006. COMMISSIONER ORMAN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CFH06-00037 & CUP06-00072 / Capital Investors, LLC – COMMISSIONER ELLSWORTH MOVED TO DEFER TO NOVEMBER 13, 2006. COMMISSIONER VAN OCKER SECONDED THE MOTION CARRIED UNANIMOUSLY.
Consent Agenda

SUB06-00076 / Newcastle Heights Condominiums #1
Location: On the east side of South Maple Grove, North of Overland Road
A PROPOSED PRELIMINARY/FINAL PLAT FOR CONDOMINIUMS WITH 40 UNITS.

SUB06-00077 / Newcastle Heights Condominiums #2
Location: East side of South Maple Grove, North of Overland Road
A PROPOSED PRELIMINARY/FINAL PLAT FOR A COMMERCIAL SUBDIVISION WITH 8 UNITS AND 4 COMMON LOTS.

SUB06-00080 / Harrowgate Subdivision
Location: North side of Gage Street, West of Overland Road
A PROPOSED PRELIMINARY PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 5 BUILDABLE LOTS.

SUB06-00073 / Associated Foods Subdivision
Location: South side of West Amity Road and West of South Market Street
A PROPOSED PRELIMINARY PLAT FOR AN INDUSTRIAL SUBDIVISION WITH 3 BUILDABLE LOTS.

ON THE CONSENT AGENDA, COMMISSIONER VAN OCKER MOVED FOR APPROVAL OF THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER WILSON SECONDED.

Commissioner Wilson noted a letter of opposition that was in Item D, SUB06-00080 that there are six (6) homes in that area now and that actually approving this would reduce this to five (5) in order to address the concerns that were addressed in the letter.

MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CUP06-00074 / Conger Management Group
REQUEST FOR RECONSIDERATION OF THE PLANNING AND ZONING COMMISSION’S DENIAL OF A CONDITIONAL USE PERMIT FOR A MIXED-USE PLANNED DEVELOPMENT CONSISTING OF 32 RESIDENTIAL UNITS AND 2 OFFICE UNITS ON ± 5 ACRES.
COMMISSIONER WILSON MOVED TO DENY THE REQUEST FOR RECONSIDERATION FOR CUP06-00074. COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Wilson – I don’t think that they have presented any new evidence that we didn’t hear before at our previous hearing and that if there are substantial changes to the application typically we hear that as a substantial change within the year period rather than a reconsideration. Reconsiderations are pretty limited to certain cases.

Commissioner Van Ocker, Commissioner Ellsworth, Commissioner Brunelle abstain from voting due to not being present at the previous hearing.

MOTION CARRIES UNANIMOUSLY.

CAR06-00045 / Conger Management Group
STATING FINDINGS FOR A PLANNING AND ZONING COMMISSION RECOMMENDATION OF APPROVAL TO REZONE FOR THOSE SAME ACRES AT THAT SAME LOCATION FROM OPEN LAND TO NEIGHBORHOOD OFFICE WITH DESIGN REVIEW.

COMMISSIONER WILSON MOVED TO APPROVE. COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Wilson – The findings that have been brought back by staff reflect the discussion that we had and our approval of the rezone.

MOTION CARRIES UNANIMOUSLY.

CAR06-00037 / Boise Gowen LLC
Location: 951 E. Gowen Road
REQUESTS APPROVAL FOR ANNEXATION OF ± 9.371 ACRES WITH A ZONING DESIGNATION OF M-2D.
(Deferred from September 11, 2006 hearing)

Chairman Fadness: The only opposition was from the airport and they have been satisfied and the agreement will take care of their concerns about possible uses in that zone.

COMMISSIONER WILSON MOVED TO APPROVE CAR06-00037. COMMISSIONER VAN OCKER SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.
SUB06-00061 / Distribution Center Subdivision
A PROPOSED PRELIMINARY PLAT FOR AN INDUSTRIAL SUBDIVISION WITH 3 BUILDABLE LOTS LOCATED ON THE SOUTH SIDE OF W. AMITY ROAD AND WEST OF SOUTH MARKET STREET.

COMMISSIONER WILSON MOVES TO APPROVE SUB06-00061. COMMISSIONER RUSSELL SECONDED THE MOTION.

Commissioner Wilson – I think this subdivision fits well with what we have just approved for the zoning and will be a good addition to the community and the industrial lands in Boise.

MOTION CARRIES UNANIMOUSLY.

CAR06-00059 / LG Investments, LLC
Location: 1330 South Division Street
REQUESTS APPROVAL OF A REZONE OF 0.55 ACRES FROM R-2 AND R-1C TO R-3D AND A CONDITIONAL USE PERMIT FOR A PLANNED DEVELOPMENT CONSISTING OF 5 DUPLEXES ±.55 ACRES LOCATED IN A PROPOSED R-3D ZONE FOR VARIANCES TO THE SIDEYARD SETBACK FOR SECOND STORY BAY WINDOWS. THIS REQUEST ALSO INCLUDES A CHANGE IN CONDITION 2 ON ITEM NO. 8. THAT NO LONGER REQUIRES A STAMP AND ALLOWS APPROVAL OF WORK FROM A LANDSCAPE PROFESSIONAL.

COMMISSIONER BRUNELLE MOVES TO APPROVE CAR06-00059. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Brunelle – What we are dealing with here is a request for a change in the zone and the Staff Report provides good information on the appropriateness of the change from R-2 and R1-C to and R3-D for these parcels of land which actually border some existing R-3, which in my mind is a good justification for this site. In addition it is on a corner lot and it is also adjacent to what used to be a fitness center that is currently an empty site. I know that we recently approved a conditional use for that site. At this point in time since there are no uses going on immediately adjacent I think a rezone doesn’t have a conflict.

MOTION CARRIED UNANIMOUSLY.

COMMISSIONER BRUNELLE MOVED TO APPROVE CUP06-00088 and CVA06-00038. COMMISSIONER WILSON SECONDED THE MOTION.

Commissioner Wilson - Does Commissioner Brunelle’s motion include the language to condition of approval no. 2 says that the plan must be prepared by a landscape professional rather than prepared and stamped by a licensed landscape architect.

Commissioner Brunelle – I did not state that but that was my intent.
MOTION CARRIES UNANIMOUSLY.

CAR06-00052 / Alex Galenko
Location: 12242 W. Ginger Creek
REQUESTS APPROVAL FOR A REZONE OF ± 1.41 ACRES FROM R-1A TO R-1B.
and
SUB06-000888 / Bethany Place Subdivision
A PROPOSED PRELIMINARY PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 4 BUILDABLE LOTS LOCATED ON THE NORTHWEST CORNER OF GINGER CREEK AND CLOVERDALE.

Julie Parker (applicant’s representative)/Civil Dynamics/17-12th Avenue South, Ste 203/ Nampa, ID:
Under recommended Conditions of Approval Special Condition No. 1: A 4 ft. wide sidewalk shall be constructed on one side of the common driveway. I have never encountered this request before and I was wondering why it came up for providing sidewalk on Ginger Creek and Cloverdale and this is a 4-lot subdivision.

Cody Riddle: That sidewalk along one side of the drive is to provide a safe route for pedestrians. That common drive functions as 2-way traffic at times so it delineates that pedestrian path.

Ms. Parker: I am wondering how you would construct a sidewalk adjacent to a concrete driveway.

Chairman Fadness: It sounds like you oppose the condition so why don’t we go ahead and read the Staff Report first and we will just handle this with a normal hearing.

Cody Riddle presents the staff report with a recommendation of approval.

Ms. Parker: I agree with everything that Cody has put forth on his submittal I was just wondering why when two of the homes will most likely have their front door facing Ginger Creek Drive. They will most likely exit from that front door onto Ginger Creek. I just really don’t understand the concept of an added expense of a sidewalk next to a driveway. I have looked through the requirements of a common drive and it is not stated in the subdivision ordinance that it is ever required. We just got through having Wytona Subdivision approved, the final plat, and it has four lots that are accessing common drive and there was no requirement for a common sidewalk either.

Commissioner Brunelle: I think some of us would like to hear from Cody about the sidewalk.

Mr. Riddle: The applicant is correct in that isn’t clearly outlined in the ordinance, rather was a safety concern that the subdivision staff came up with and was reflected in the conditions of approval. It is typically a bigger concern when the common driveway is serving more lots; I think they can serve up to six lots.
Charles Funk / 12261 W. Edna Drive / Boise: The back end of my property is adjacent to the requested subdivision. I requested the zoning be denied on this piece of property to allow for the additional homes to be constructed in there. It is not in accordance with the traditional density within that area. The Ginger Creek at the time of the inception of the Tradition subdivision requested that this Commission allow for larger lots in the area to be more in line with what Ginger Creek had at the time and still has. With the current changes this would be an over density in accordance with the other subdivisions that are adjacent to it. I would request that they would deny the request on that portion of it. Also it has a common driveway to service the last two homes in that as it comes off of Ginger Creek. It has been the Fire Department's reasoning in the past that they have a turnaround on dead end driveways like that so that they can extract their vehicles or in case ambulances, get ambulances out of there and that. This is a dead end drive way with no turnaround or nothing at the end of it. Also as it stands right now the size of the lots vary considerably and if you take the acreage that they have listed or the square footage that they have listed on the plotting here it goes for about 8,000 sq. ft. to something like 16,000 sq. ft.

Chairman Fadness: Your time is up if you could just summarize very quickly. Do you have a quick closing point you would like to make?

Mr. Funk: Yes, I would just ask that you deny this request based upon all of those facts that it is not conducive with the current construction in the area.

Commissioner Van Ocker: Cody could you just outline the requirements around the common driveway to answer his questions about the fire access.

Mr. Riddle: The fire if you will refer to page seven of twenty three in the Subdivision Report which was 10a. They outlined there that the maximum length of a common driveway is the 150 ft. which is what is proposed and that is allowed without a turnaround.

Chairman Fadness: Cody could you just update us on the density under the proposed rezone what the density is allowed in this area?

Mr. Riddle: The allowed density would be 4.8 dwellings per acre proposed for the plat it is about 2.8 dwelling units per acre.

Commissioner Brunelle: Cody could you take us back to the aerial photograph that was at the beginning of your presentation and if you could zoom in for us on the parcel in question. I am curious about what surrounds the parcel. My understanding is that Mr. Funk’s property would be due to the north which I think has two buildings on it. Is that correct?

Mr. Funk: Pardon would you repeat that Sir?
Commissioner Brunelle: Your property is due north and borders the parcel in question?

Mr. Funk: Yes.

Commissioner Brunelle: It appears to me what we have west of the property is a tennis court in the backyard? Could you describe what we are looking at there?

Mr. Riddle: You can see clearly on the screen the outline of the subject property. You are correct to the west we do have one home with a large hedge (that doesn’t show up), then the tennis court. The property does back up to the existing home here and then a larger out building to the east of that.

Commissioner Brunelle: I have a question for the applicant. If Ms. Parker could approach the microphone. I am just interested in the information that we have here shows the subdivision lot lines and the information about the rezone but there is nothing in here showing the design of the houses and I am just curious if you have got a plan of what the housing will look like.

Ms. Parker: I’ve visited with the owner and it is his intent for him and his sister to build on at least two of the lots and they are probably going to have other family members build on the other two. He said that the home sizes will range from 2500 to 3600 sq. ft. and that they will be comparable to the R-1B which is what the Traditions are. That is the zoning that we are going after also. He is looking at side load garages where you don’t have the garage facing the street. They are going to be very nice.

Commissioner Brunelle: But at this time you don’t have any?

Ms. Parker: No we don’t have any plans yet.

Mr. Riddle: Just briefly you know the request didn’t include a conditional use application so the floor plans and elevations weren’t required as the lots do meet the minimum dimensional standard in that R-B zone.

Ms. Parker: The only thing I have in rebuttal is that we are asking for the same zoning as Mr. Funk currently occupies in his subdivision. We are not asking for anything less and we are actually only adding an additional three lots to this subdivision because there is one home currently on the site right now that will be demolished.

COMMISSIONER VAN OCKER MOVES TO APPROVE ITEM 10 ON OUR AGENDA CAR06-00052.

COMMISSIONER RUSSELL SECONDS THE MOTION.
Commissioner Van Ocker: I think that the staff has done a good job of outlining this request for rezone. The parcel and the properties to the north, the existing, are 1-B zone. I don’t think this is a big stretch to change the zoning designation to R-1B considering it is a corner lot on an increasingly busy roadway. I think this is the appropriate way to develop this parcel.

Commissioner Brunelle: I had some concerns about this proposal but I support the motion on the basis of it’s compatibility with the existing zoning and the surrounding neighborhood and the lot sizes especially to the east. I see no bright line that should be drawn along Cloverdale Road that lot sizes should be larger to the east than they would be on the west side of Cloverdale. In fact when you look to the subdivision to the north off of Edna Street you have some lot sizes that would be very similar in size. The one concern I do have would be with the lot in the northwest corner or the northwest quadrant of this parcel. It would abut to the west the tennis court but then to the north it would be matching up to the back yard of Mr. Funk’s residence. Since we don’t have a home design we really don’t know (I am speaking to the applicant) what the affect would be and that is unfortunate but again you are not required to provide the detailed home design drawings because you are here for a rezone and for a subdivision approval. What I would just like to say though is that the fact that you are doing this for a family and they are going to live there, I would hope that they could work with their neighbor to the north. Commonly we get changes in zones or infill projects where we end up with attempts to put two story houses right back up into somebody’s back yard, with that second story windows looking down. I would hope that in your home design you could come up with some designs that respect the privacy of the neighbor to the north. I don’t see that concern with the neighbor to the west because your house in the southwest quadrant would orient toward the street to the south anyway.

MOTION CARRIES UNANIMOUSLY.

COMMISSIONER VAN OCKER MOVES TO APPROVE SUB06-00088 WITH STAFF’S RECOMMENDED CONDITIONS OF APPROVAL AND FINDINGS OF FACT.

COMMISSIONER RUSSELL SECONDS THE MOTION.

Commissioner Van Ocker: We have only spoken about it briefly about the sidewalk along the common driveway and although I can see how the applicant is concerned about that I know that we do have this condition that we have put in the past. I think it is appropriate; we are not dealing with a large chunk of earth here so I think it is appropriate just to get some more activity to the public street.

MOTION CARRIES UNANIMOUSLY.

Chairman Fadness: We only have a couple of items remaining. Before we go to the school items I thought I would see if we could quickly take up Item No. A. Is the applicant for Item A still present? He did state an opposition to staff’s findings. However with him no longer being present I don’t know if we should weigh the staff report.
Boise City Planning & Zoning Commission  
Minutes of  
October 2, 2006  
Page 9

Mary Watson (legal): If he has expressed opposition. He maybe just stepped out of the room or something. We shouldn’t go forward with that right now.

Chairman Fadness: We have taken note that he has stepped out for quite some time. I could take up Item No. 5 I suppose.

Ms. Watson: I would do that first and leave it to the very end.

Chairman Fadness: Item No. 3 excuse me.

CUP06-00080 / Independent School District of Boise  
Location: 805 S. Shoshone Street  
REQUESTS CONDITIONAL USE APPROVAL TO CONSTRUCT A NEW ±139,000 SQ. FT 2-STORY JUNIOR HIGH SCHOOL LOCATED AT IN AN A-1 (OPEN LAND) ZONE. THIS INCLUDES APPROVAL OF A HEIGHT EXCEPTION AND PARKING REDUCTION. THE EXISTING JUNIOR HIGH ON-SITE WILL BE DEMOLISHED.

Commissioner Russell recuses himself from a vote on this item due to a conflict in that his firm has a contract to do some work on this project.

Commissioner Van Ocker won’t participate on this item either due to the applicant being a client.

Chairman Fadness excuses the Commissioners.

Scott Hansen (applicant’s architect): This is a request by the school district to build a junior high school located at the old South Junior High site in an A-1 zone. The vicinity map that is on the display board now not only shows the zoning of the property which is A-1 surrounded by R-1C zone but it also shows the lotting and development pattern which has occurred over the years. The junior high site is surrounded predominately by single family residential development. This is an aerial photograph from the year 2003 to perhaps give you a better idea of how the site exists now. The school district proposes to demolish the existing building that was built in 1948 and replace it with a new junior high school building. In the A-1 zone schools require conditional use permit. That is why they are here before you tonight in addition to the fact that they are requesting that the school be built to a maximum height of 44 ft. 8 inches. The highest allowed building height in the A-1 zone when adjacent to residential development is 35 ft. This shows a site plan for the proposed school. As you can see the building is being built partly on the existing site but more towards the west where the school sits now. Staff has reviewed the site and finds that it complies with zoning development standards for yards, setbacks, open space, walls, fences and other dimensional items. Where it does not comply in the first area is in height and the second is parking. The existing school has 38 parking spaces but only 18 that comply with zoning standards for location. The applicant is proposing with the new development, to located a parking lot on the east end of the site accessed off of Shoshone Street midway between
Park Circle and Cassia Street. This parking lot would contain 98 spaces all of which would be compliant with the current. The zoning ordinance requires nearly 300 parking spaces. The applicant is requesting a parking reduction and the primary justification for this request is that there is no parking there now and we are improving a site that has been vastly under parked. It did seem from the neighborhood meeting and from the few comments that we have received that parking is not the largest issue here. Right now during school events as I can attest having had four kids attend South Junior High and one their now. Most of the parking is done there on the street and a lot will continue to be but there will be a significant more that will be able to park off street in accordance with City standards. I would like to bring up to you some color elevations of the building so that you know just what it is going to look like or at least have a good idea. The site is not located in a design review district. Site issues come into play only as they pertain to compatibility to surrounding development and possible adverse impact on adjoining properties. Staff is recommending approval of the height exception partly because the existing building has a maximum height of 42 ft. 8 inches. At its highest point the proposed building would be 44 ft. 8 inches. The difference of only 2 ft. and the highest portion of the building would be located towards the interior of the site where the auditorium and gymnasium would be located. Probably 150 ft. or better from any adjoining residence. Staff feels there would not be any adverse impacts on the adjoining properties by the slight increase in height from the existing building to the proposed building. For reasons stated before, we are also in support of the parking reduction. You can see some of the newer high schools such as Le Bois out in Colombia Village and River Glen in the northwest portion of the City have been built to comply with City standards for parking. That isn’t the case here this is a different scenario and with the significantly improved onsite parking proposed by the applicant, staff is in support for the request for the parking reduction. We have received no comments for the proposal until today and you have copies of those. One was from a private homeowner who lives nearby. The other from an organization called Preservation Idaho and the last is from the Parks Department that we just received before the meeting started. The Parks Department is asking for some concessions related to the municipal pool that it operates just to the south of the existing site. Now the school’s auditorium is now will be a tennis court. The Parks Department is asking that you impose some conditions that would protect its interest in its municipal pool. We do have a representative from Parks here.

Chairman Fadness: I will note for the record that we do have letters from Dan Everhart of Preservation Idaho and also from Jill A. Osborn and an email from David Selvage from Parks and Recreation. We will next hear from the applicant.

Scott Henson of LC Architects / 1221 Shoreline Lane / Boise, ID: In short we have reviewed the conditions of approval and take no exception to those conditions. We have taken a look at the email that was sent from Parks and Recreation and we just received that this evening when we arrived. We would fully agree with Items No. 2 and 3; however I believe that Item No. 1 is worded a little bit more strongly than I think we would prefer. It refers, in the second sentence in Item No. 1 it says “The school plan must be modified to maintain existing parking areas.” There currently are no parking areas that are part of the driveway that is being referred to. Currently
there is a driveway that comes off of Shoshone that runs right along on the school district property on the north side of the property line that separates the school from the pool. It just then meanders off into the general asphalt area of the existing school facility. We propose to maintain a service drive that is in the same location with a turnaround at the end so that Parks and Rec can have full use of maintenance equipment can get in and serve that. As far as the parking goes since there are no current parking spaces other than the 18 that Mr. Spjute referenced, we are providing 98 parking stalls on the north of the tennis courts that will be able to be used by multiple users. With that I will put the boards up and go into a little bit more detail. I can express some of the ideas that we were using in locating the building, in particular what we are doing to save a portion of the existing facility. We weren’t aware of there being any letters from anyone else. We have had numerous meetings with Preservation Idaho and Jill Osborn prior to this hearing. First we will look at the site plan. What we don’t have here is the existing site plan so that we would be able to clearly indicate where the existing building is but what we are doing is that we are proposing to place the new building as close to the existing building as we possibly can. We took a look at a number of scenarios of even remodeling the existing building to keep it operational, but ultimately what has to be done is the remodel would be so severe that the children using that facility and teachers would have to be relocated for a year and a half. We need to be able to keep the students onsite during construction we are locating the new building as close to the existing building as close as we possibly can. We are about 20-25 ft. away which just barely allows enough room for construction activities to get in and build a facility and maintain proper exiting from the existing facility. We will build that building and once the new building is in place then we will move all of the children into the new facility at their term break and demolish the old facility, build a parking lot and tennis courts and then finish doing the rest of the site development. What we are proposing is 98 car parks that are onsite as opposed to the 18 car parks that are currently there. Most of the rest of the car parks that are available are on the streets, primarily Cassia and are doing a backing movement into the right of way and pulling out into traffic that way and it is a very dangerous situation. We have separated a parent drop off which is on the northern part of the street off of Cassia Street so that parents will be dropping off students right at the front door and then we have got a single point of access on Shoshone that brings buses around a bus loop and stacks them up there where the children can either go in the student entry which is on the south portion of the building or the main public entry which is on the north. Then we have the 98 car parks in the center of that. We are only looking at probably in the neighborhood of 60-65 car parks that would be normally used for staff needs. The rest of that would be event parking in the evening primarily. The one thing that we’ve had many discussions with Preservation Idaho with and other neighborhood groups, we have had at least four different neighborhood meetings with representatives, including Jill Osborn, to speak about what we were going to do about the existing facility. Those of you that have seen South, I really don’t want to get into a debate about the integrity or the architectural aesthetic of South Junior High School (SJHS), I am alum of SJHS, so I can attest to what it looks like myself, it is not on the historical register, this is not an historical neighborhood. What we did to try and meet in the middle ground is to save the iconic portion of the building that is that identified the school to virtually all of the neighbors and anyone who has ever gone there and that is the media center in the front entrance of the building. This is the portion of the building that is viewed from the
intersection of Cassia and Shoshone and the lower portion is the media center and the two side elements are the existing entrance and the two story wall of the north elevation. What we propose to do is to save that portion of the building and really create a win-win because right now rather than trying to create and leave a façade, we are going to wind up creating a useable space that is something that can be added to the program from that facility. We are going to building a new auditorium to replace the existing auditorium and to augment that is to create an outdoor amphitheater. That is shown on the site plan up on the screen there on the northeastern corner you can see sort of a circular aspect there that is the sidewalk that goes up around that and on the southwestern portion of that is the seating. What we are proposing is to use the media center as the stage and create an outdoor amphitheater that could be used by the public as well as the school. So really what we are doing is that we are keeping the iconic element of SJHS in tack and be able to maintain and keep that corner presence that has been there since the school has been built. What we are also proposing on the east side of that amphitheater is creating an interpretive center very much like the Anne Frank Memorial Center or some other interpretive centers where what we can do is create plaques and murals that tell the history of South using photographs of the existing building while it was under construction as well as using photographs of the new facility to be able to tell people the story of SJHS. As Mr. Spjute indicated this is an incredibly small site we are at 13 acres. A typical junior high school will range anywhere between 20 – 35 acres. Those in Meridian are going upwards of over 40. We are dealing with an existing site and what we are doing and what was noted in my letter to staff was even with the addition of 98 parking stalls and 4 tennis courts and a building that is approximately 30% larger than the existing building, we are only decreasing the green space by less than 8%. We are going from a total green space area of 61.6% to 54.4%. We are also planning on maintaining as many of the existing trees on Cassia and Shoshone as possible. There are currently approximately 19 mature trees both evergreen and deciduous nature we will be maintaining at least 15 of those providing that the City Arborist agrees with us and those recommendations.

Commissioner Brunelle: Could you point to on the planned drawings where the existing parking is now? The 18 spaces? I am curious where it is in relation to the swimming pool.

Mr. Henson: It would be easier to look at the site plan Mr. Spjute brought up. The cafeteria is the square building right in the middle of that complex and there is parking that pretty much goes all the way around that area. There is a little bit of parking on the southwest corner of the auditorium. There is parking behind the cafeteria.

Commissioner Brunelle: The shared driveway is where?

Chairman Fadness: I am wondering if you would be willing, Mr. Selvig to comment on the applicant. He has accepted the conditions that you proposed, 2 and 3, but proposed a slight modification to condition 1 to provide a service drive in that same location with a turnaround. Does that address your concerns?
Shane Weston / 1104 Royal Blvd. / Boise, ID: I am the Park Planner and Mr. Selvage is the Design Manager and I am here to speak for him this evening. What the applicant asked for is something I am sure we can work out. I apologize because I am usually the one who handles the referrals and a couple of weeks ago I had an emergency operation and I haven’t been back to my post and so I have been a little derelict in my duties. I will try to address it right here. The pool was built in 1954 and at that time there was shared access with the school. I think it was Mr. Selvage’s intent was that that shared access be fully protected and maintained. I believe it would require something like 20 ft. and I am sure that the applicant is already aware of that. As it courses back to the end of the pool area there is an area that our maintenance people use and again the applicant referred at the onset of this testimony to provide a culdesac turnaround. For that we appreciate it. That was our intent right there. So I don’t think there is a challenge in this regard if we can put those things together. The other thing is because the tennis court, I am not sure what was there before the tennis court, was that the auditorium? He is suggesting that rather than retrieving balls out of the pool, if we could get an added two feet to the fence that borders that property, create a little bit higher fence so we are having to retrieve balls out of the pool. We don’t think that is unreasonable. With that we also have and the applicant also confirmed this that our requests for conditions 2 and 3 about the drain line and sewer line be protected because those are historic now. If the sewer line needs to be rerouted out to the street and reconfigured we can work with them and do that if that is the way it needs to be.

Chairman Fadness: So the height of the fence it looks like it is part of his number 3. 14 feet is that what you are proposing?

Mr. Weston: That would be it.

Commissioner Brunelle: Do you really think 14 ft. is enough? (jokingly).

Mr. Weston: I think it would be adequate Andy (chuckles).

Commissioner Wilson: Just to clarify on Condition no. 1. Would you be willing to strike the second sentence?

Mr. Weston: About the modified?

Commissioner Wilson: About the modifying to maintain the existing parking areas and full with access drive, you would strike that but just retain the third sentence that requires the….

Mr. Weston: We have to make sure because that is our only way in to service those areas. We have got to make sure. On the modification, what I am seeing here at least is that there is actually a provision for a drive through there to get to there. As long as it is equal to what was there before then I don’t think there is a challenge.
Commissioner Brunelle: Mr. Weston are you aware of any handicap parking that is in proximity to the pool now?

Mr. Weston: No but I am glad you brought that up. I don’t know about the handicap parking but I would like to make a statement that we are looking at the southeast side of the map going directly north we do have an area where we do some parking. A lot of the service trucks for the parks will pull up right there. We would like to make sure that we can still park in front right there and it doesn’t adversely affect where parking personnel park.

Chairman Fadness: I did notice from the neighborhood meeting that there seemed to be quite a bit of opposition to the new outdoor amphitheater, was that mainly a cost issue or what it more a design issue?

Mr. Henson: According to the questionnaire that we handed out, I compiled the responses to those and also reading the commentary that went along with those and kind of knowing the nature of the meeting, I believe that it was more of a result that some of the folks felt that anything short of keeping the existing building in tact was unacceptable.

Karan Lockhart / 3606 Tulora Drive / Boise, ID 83706: I just came here to support the new construction of a new South Junior High. I appreciate the thoughtfulness of keeping the media walls to build the amphitheater. As a neighbor who has talked to the other people in the neighborhood, we are really excited about the amphitheater. That we can hold neighborhood meetings there. It just opens a lot of opportunity for our neighborhood. We appreciate that the walls are left that they have compromised with people that wanted to keep South. We thought that was a good compromise. The school district is also building the auditorium which was a major concern for neighbors. We appreciate that because it has an auditorium right now and there are not a lot of junior highs that have that. We appreciate that they kept that in mind in building this school. Also as a parent of two children that go to South Junior High. I am really thrilled with the design I am thrilled with the process of working with the school district and just how thoughtful they have been in this whole process.

Fred Riddle / 3302 Kipling Road / Boise, ID 83706: I am a tax payer like the rest of you. Also a Depot Bench Neighborhood Assn. member. I had two offspring that attended SJHS and I know what the school is like and I am telling you this is a great improvement and I approve of what the gentlemen have come up with. I have two grandkids that will attend it and I want a good school for them and I think this will be it. Short of breaking the law I think we ought to make whatever concessions we can on the height and the parking to allow this project to be done. It is a great improvement for our community and I approve it.

Jim Pickett / 3501 Windsor Drive / Boise, ID 83705: I live about a block and a half to the west of SJHS so I am a neighbor. I have two children who will attend SJHS in the next five to seven years. I urge your approval of this plan. I appreciate the fact that the applicant is asking for a height and parking variance. The parking variance, I believe that is a very attractive parking area
much better than the usual 300 parking spots that would be attributed to a junior high. Personally as a neighbor, SJHS is my backyard and as a backyard I would much rather have grass and field rather than parking spot. As a neighbor I have lived in that location for 10 years now. The amount of parking that occurs on the street is usually one or two nights a month. Occasionally on the Cassia side for football practices. I have no issue with the height increase. I feel that the views that they have provided are an attractive school and will be a true asset to the neighborhood. Again I urge you to approve the conditional use permit as proposed.

Sheri Freemuth / 1303 N. 24th / Boise, ID: I am a member of Preservation Idaho and Advisor Ameritus of the National Trust for Historic Preservation and a past member of the Boise City Preservation Commission. I typed up some notes so I am going to read to you this evening if I could. About 15 years ago I spoke before the Commission regarding a Boise School District application to construct an elementary school. It was later named Riverside Elementary off of Parkcenter Blvd. At the time the district chose to place an award winning school design on the site in such a way that an historic structure would be demolished. The Planning and Zoning Commissioners rightly pointed out the importance of addressing the unique characteristics of the site in their site planning. This included finding a solution that would preserve the historic structure and any other important site attributes. The Commission sent the district back to the drawing board. Of course the result was the preservation of the Bowne House now an integral part of a public private partnership that enhances district student’s understanding of Idaho history. Interestingly enough the house once thought to be an eyesore and inappropriate to a school campus is an asset to the Parkcenter neighborhood and inspired the new Bowne Crossing neighborhood. I bring this up to illustrate how good planning is and how important your role in that process is. The preservation community has sought a number of ways to support the district in coming up with a solution for improving SJHS without demolition. That has included several one on one meetings as mentioned. Finding a speaker from the Counsel of Educational Facility Planners to visit Boise to visit trustees and administration to provide numerous examples of cost affection renovation projects. The preservation community also funded a separate design effort at the urging of the trustees that demonstrated the effectiveness of a renovation project. That solution was rejected by the trustees before the bond election ostensibly because of the cost. I might note that the dollar amount was considerably less than the dollar amount associated with the plan before you this evening. The solution that the district presented is the going forward alternative prior to the March Board election while not ideal will retain more of the structure than the plan before you this evening. The school district is fond of saying that their mission is to educate the kids. As a parent of two in the district, I applaud this, but there are also a steward of public buildings and an owner of properties that are cornerstones to our neighborhoods. I understand your mission is to insure compliance with the comprehensive plan and ordinance to safeguard neighborhood properties and otherwise consider the community as a whole. After a cursory review of the current comp plan I suggest you review objective no. 7.2, Community Design Objective 1: Promote and establish a physical framework of development in the City which encourages the development of form and character of its districts, the preservation of its neighborhoods, and the conservation of its historical identity. The plan before you does none of these things. Saving a wall and proving signage does not do justice to this Art Deco structure.
Please take a page out of the book of other communities where historic schools are modern learning centers and historic landmarks. Boise School District is capable of this is witness for the Historic Boise High and for that matter the older North Jr. High. In conclusion I request that the School District revisit their plans for the existing SJHS nor should deviations from the code their requested height variance and parking reduction be awarded. The neighborhood and the city deserve better.

Jonna Moore / 820 Shoshone / Boise, ID 83705: I live right across the street from SJHS and I don’t want it demolished. It has really divided our neighborhood. I know there were three testimonies in favor of this proposal. There are many neighbors who are not here that are opposed to this project. It is a structurally sound building. It is an historical building. I have had two sons, I have one son attending SJHS right now and I have a son right now that is a 10th grader at Borah and just finished attending SJHS. He had a wonderful education there. I don’t think necessarily the building has to do with the education. It is the quality of the teachers and there are quality teachers there. I know that the building needs to be improved. My neighbors, we don’t feel that there is a problem with parking. I don’t think that the building should be demolished. I think that the site that they showed, as the architect has said that this site is too small for a new structure. I think we should preserve what we have. Preserve the history. It is 13 acres like you said and I think national standards say that a junior high should have 50 acres. I don’t think that they should be messing with this land or this building. Like I said I just want to say in summary, I am in favor of improving the building, I think it does need to be remodeled and improved but I do not agree with the plan in demolishing the building and imposing a giant building in that space. I just want our neighborhood to come together and right now we are very divided. I wish there was a way that we could find a solution that would meet our student’s need and the neighborhood’s need. The major objection is what I have heard. I have gone to neighborhood association meetings and the reason that they don’t want to remodel the building is that they don’t want the kids displaced for the year that it would take to remodel the building. Well West Junior High is the perfect solution for that; it would be a short amount of time for preserving an historic building. I think they should take more time to consider other alternatives.

Commissioner Brunelle: I have a question for Cody. When I did go through the record here there really wasn’t much in the staff report if anything on City Comp Plan policies that I saw with regard to, I am sorry that is Scott not Cody. Scott I was curious about just what do we have in the City Ordinance or the City Comp Plan that would get to this question of Historic Preservation. Mrs. Freemuth did make one reference to a section. It is not covered in the staff report and I am just wondering if there is anything there that you could elucidate on.

Mr. Spijute: I think Carl sited the relevant sections of the Comprehensive Plan on page 7 of 12 in his report and you will note that none of these have to do with design. While we don’t want to turn a blind eye to design at any particular time, this land is not in a design review district. Were it we would not have been having an argument about whether this looks nice or whether the new building is more or less historic looking than the old building or whether the old building is historic looking at all. We would turn that issue over to the panel of the seven on the Design
Review Committee. It is not in that sort of district and so while you can look at design issues they have to be related to the findings that are here now and if you want to impose conditions of relating to design they need to be related to the finding. Having to do with adverse impact on adjoining properties and compatibility with surrounding development and I can’t think of any other comp plan policies beside the one sited by Ms. Freemuth that might have to do with the design of a school building.

Commissioner Ellsworth: Did you consider the West Junior High option for preserving this school or was it mostly just cost that was prohibitive and SJHS remodel alive.

Mr. Henson: Yes, all of those options were considered. We have been considering this project or well over a year, having numerous meetings with the facilities department, the principal of South, and local meetings as well. We did consider that when Freemuth mentioned that there was an independent architect that Preservation Idaho hired to come in and look at the remodel of that facility. I will disagree with her and actually his cost did bear out that it would be more expensive to build in place than to build new and what he did not state in his remarks to the school board was that it would require students to be displaced for a year and a half. It would require that the new west Junior High School be completed which isn’t slated to be done for another 2 years for it to be opened. To relocate those students from current West to new West and then to relocate the students from South into West, there are a number of issues that are involved with that. The school district needs the money that is going to be acquired once they sell West to support the construction activities of this bond. Too we are talking about extending this whole project out about 2 to 3 years and we have been showing that in fact out in Meridian when we are building those schools repeatedly that over a 2 year period between the last 2 high schools in Meridian the cost escalated 41.5% in 2 years for an identical middle school. In terms of an 18 million dollar school that is multi million dollars that once a school bond has been set we can change that money. We can’t just go out and find 4 or 5 extra million dollars to do that. So yes, we have taken a look at all of the various alternatives and find this to be the best solution. There are certainly neighbors that are in support of keeping the building as it is and those in the same exact meeting where some would stand up and say we need to keep it one adjacent to them would say we need to tear it down that live right next to one another. So there is obviously mixed emotions amongst the people in the neighborhood but in our surveys the vast majority agree with the plan as being presented and in fact, excuse me one thing Mrs. Freemuth didn’t indicate was that the school district had a meeting with the independent architect that the Idaho Preservation group hired as well as Dan Everhart, their President and we reached a compromise in the school district offices more than 2 months ago based on this plan. They agree that it wasn’t the greatest solution they could have come up with but they agreed that it was a fair compromise so for us to hear now that that is not the stance of Preservation Idaho it throws us off guard.

Commissioner Orman: I was just wondering how many students the existing facility will accommodate vs. the new facility?
Mr. Henson: They would accommodate about the same student body. I believe 850 is what I said. Essentially what they will need to do is redistrict somewhat based on what is happening with the elementary population as well so the intent is to keep the same quantity of students as are there currently.

Commissioner Wilson: That is really driving the construction of a new school if it is not an increase in the student body, because you are asking for greater height, height exceptions and this sort of thing so. I had assumed it was for a greater student body but I guess that is not the case.

Mr. Henson: No it is not to accommodate a greater student body. What we have out there right now is grossly inadequate sized classrooms. The building is a solid concrete structure. The exterior walls and the corridor walls are solid cast in place concrete that are incredibly narrow in width. So what it has created is classrooms that are about 18 to 20 feet wide. In order to be able to make those things the appropriate square footage they need to be which is in the neighborhood 800 sq. ft. they are currently around 650 sq. ft. They are putting students in areas that are just far too small. The library for example is about 1500 sq. ft. A new middle school or junior high school is well over 1,000 sq. ft. All of the spaces that they currently have are grossly inadequate. We are providing a full size gymnasium with seating that can accommodate 1,000 people. Their gymnasium has no practice court as part of that gymnasium and can only seat probably less than 100 people in that there is no practice gym we are providing a practice gym. Their also grossly inadequate, they do not meet ADA. There is not even an elevator in that existing building. The building cannot really not really adequately support the educational program that the Boise School District wants to provide the students of that area.

Mr. Spjute: Buried fairly deep in your packet was the letter of application from the School District that it had invited over 11,000 people to attend its neighborhood meetings, had over 100 attend and of course we send out notice for this hearing. It is perhaps telling that you know as well as I do that people who support projects generally don’t show up. It is the other way around and out of all of the involvement and notification done by the applicant and the City there is only one neighbor show up to testify in opposition. So I think that is something that needed to be noted and I would just again reiterate that you are looking at the criteria for Conditional Use contained in Chapter 6 of the Ordinance.

Mr. Henson: The only closing comments that I believe that I should make are that we have worked closely with the neighbors as best we can. I believe that we have created a building that really works together in the character of the neighborhood trying to tie together a building that was built in the 50’s and looking at the design if you have got those elevations in front of you I think we have created a beautiful building that will really rejuvenate a neighborhood that needs that shot in the arm. I think in general the neighbors will be overly supportive and proud of what comes out of this construction activity.

COMMISSIONER ELLSWORTH MOVES TO APPROVE CUP06-00080.
COMMISSIONER BRUNELLE SECONDS THE MOTION.

Commissioner Ellsworth: I think it is exciting that this plan has come forward. I hate the fact that we have to tear down old existing buildings. You went to SJHS and I went to NJHS. I would hate to see great buildings like Boise High North Junior High torn down and it sounds like EJHS is going to go. Sometimes you have got to tear down existing structures to move forward and rejuvenate neighborhoods, create better classrooms for children to go to school. I think that this is a good compromise. I see some of the old coming forth in the new design and although I think it unfortunate that they are tearing down the building, I do think that the existing classroom size and facility be a better facility for serving the needs of the school children in Boise. I would also say for the record that I think it has got to be a pretty high standard to tear down one of these old buildings and I would encourage the Boise School District to always take a look at renovating and rejuvenating an existing structure because they are part of the neighborhood and it is really important to keep those old structures in those old neighborhoods and that goes for the junior highs and high schools as well as the elementary schools.

Commissioner Brunelle: With respect for what is before us tonight and the basis for my voting in favor of the Conditional Use Permit for the height exemption and the reduction in parking, I am in favor and I like the design and what I see. I am not happy about seeing the old building go. I struggled with that, but our role here on the planning board we need to base and make a connection between our vote and what we find in the comprehensive plan and in the City Ordinance. What we heard here tonight there just isn’t a connection there that I can draw that would lead me to deny a height exemption on the basis of lack of historic preservation when there has been a compromise, it may have not been a good enough compromise. I might have been persuaded if I knew that there was something out there that could have been added that would make all parties feel better about where this will be headed with us saving maybe more portions of the building. I would be really reluctant to deny this and send the School District back with no guidance. I think the parking reduction is great. With that I think we should vote in favor of this motion. Now do we want to amend?

Commissioner Ellsworth: I make an amendment to my motion which includes comments from the Parks Department and will be added as Conditions of Approval and there are four (4) items here. Do I need to read these?

Chairman Fadness: The only one that I might mention is the change in Condition No. 1.

Commissioner Ellsworth: OK, the change in Condition No. 1 we are going to strike in the second sentence; “existing parking areas and the full width.”

Chairman Fadness: I guess we should say that that isn’t Condition No. 1 in the application but the first point presented.

Commissioner Ellsworth: That is added Condition No. 1 per the email from David Selvage.
Commissioner Orman: I just have a reservation about this. They are not really adding capacity for additional students and when the growth of Boise as seen in the past 6 or 7 years, I am wondering how that is going to play out, having said that, I can understand a need for a new facility. This is a nice building. I wish something could have been done with the old building to expand it or rehabilitate it, but I am just a little concerned that we are not adding room for students 10 or 15 years from now.

Commissioner Brunelle: Just one comment that persuades me in support of the amended motion is that the School District did stand up here and testify to the fact that they did consider alternatives such as temporary location. I know that what would appear to be the most expedient alternative which would be building adjacent and then the removal of the building may pencil another way, but I think we need to respect the discretion of the School district when they said that they went and looked at these other alternatives and so with that it they had said, No we didn’t want to look at that because that is not the way we do business, then I would have a problem, but it sounds like you guys took a look at that so I am satisfied with that.

Commissioner Ellsworth: I am going to read these conditions to the Conditions of Approval: There are 4 additions to the Conditions of Approval 5, 6, 7 and 8 is that what we want to do?

No. 5 - Parking and access to the pool is off of a shared driveway. A shared plan must be modified to maintain access drive that runs on the common property line between the pool and auditorium. The School District shall work with BPR to design and construct a new cul-de-sac turn around at the end of the existing common drive to insure safe and sufficient use by delivery and maintenance vehicles.

No. 6 – Full sewer line crossed behind west of the school auditorium building maintain and protect the full sewer line throughout site construction/demolition. BPR may consider re-routing a connection at another suitable location if required for cost efficiencies.

No. 7 – The pool overflow drain runs immediately west of the pool building through under the school’s existing tennis court and field areas thence to Edison Street. Maintain and protect the pool drain throughout site construction/demolition.

No. 8 – The height of the southerly tennis court fence shall be increased to 14 ft. Added fence height is needed to discourage tennis balls and other objects from being hit into the pool.

Commissioner Wilson: I just wanted to add that I was moved by the written testimony we received from Jill Osborn as well as the testimony from Johnna Moore and as well as from Preservation Idaho, but after asking the applicant what the intended use is if it is not to add more students, I was satisfied with the response that I got that it is just too difficult to work with the
existing building. I do think that they have done a wonderful job in preserving at least part of the existing structure in the design and we don’t see that as often. I am also moved by what Scott said about the extensive public involvement process that went into this and I really wish that we had a public outreach process like that for every development that came along, of course we don’t. I am convinced that there has been a lot of time spent in looking at all of the options. There is unfortunately no way to please everybody. As Preservation Idaho said in their letter that they wanted to find a solution amenable to all, but it sounds like when you are talking about does the building stay or go, there is always going to be some who wishes it could stay when it has to go, so I will be supporting the motion.

AMENDED MOTION WITH THE ADDED CONDITIONS OF APPROVAL CARRIED UNANIMOUSLY.

SUB06-00074 / Kobe Subdivision
A PROPOSED PRELIMINARY/FINAL PLAT FOR A COMMERCIAL SUBDIVISION WITH 3 BUILDABLE LOTS LOCATED ON THE SOUTH SIDE OF PARKCENTER BOULEVARD, ACROSS FROM RIVER RUN DRIVE.

Scott Spjute presents a brief staff report.
Without wishing to put words in the applicant’s mouth, I think there is just one issue that we are not in agreement with and it is the condition requiring street improvements, curb, gutter and sidewalk on Meyer Street. Mr. Spjute went on to detail the reasons that ACHD did not require the improvements to the location shown on the overhead.

Doug Tamura (applicant) / 1124 Santa Maria Drive / Boise, ID: Owners of the subdivision. When we had the project approved, it was part of HD Marr’s, which is an old rural one acre subdivision. We had our portion of it deleted CC and R’s to allow us the development. One of the things that was conditioned on our approval was that we make it so that there wasn’t any connection between our existing development because it was more office related than residential so the only conditions that the Highway District had was that we had no access to Meyer Street and we had cross access easements between our lots. The reason that we are requesting no sidewalks is that north of Parkway there is no sidewalks on the east side of Meyers. On the west side of Meyers there are hardly any sidewalks all the way to Pennsylvania. Then on Smyser, so Meyers’ goes up and where it takes that left that is called Smyser. Smyser is about a quarter mile long road that is a dead end cul-de-sac and along that it is just one acre rural subdivisions with horses and pastures. Again like what Scott read, there are certain neighborhoods that the Highway District still recognizes rural in nature. We just completed a little infill subdivision on Holden. Again the Highway District waived the conditions on that subdivision because of the rural nature of those homes in that neighborhood too. I am just here to request that we delete Condition No. 1.
Commissioner Brunelle: Your first point was that you don’t have access to Meyer’s Street, co
access, is that correct?

Mr. Tamura: Yes that is correct.

Commissioner Brunelle: So where is the vehicle access to this that would come off of
Parkcenter?

Mr. Tamura: On a subdivision we were required to have street frontage, but on the street
frontage it is not a requirement that the access come off of those street frontages. The purple lot
actually has a 30 ft. flag leg that touches Meyers but is actually Loggers Creek. The blue lot has
frontage on Meyers and then the orange lot has frontage on Meyers, but all of the subdivision
runs off of access points. You can see one right above Scott’s head and that feeds into both St.
Luke’s Primary Care facility and Alterra. At one time we owned that whole parcel and kind of
land planned that so that we had cross access easements that ran between all of those parcels in
there. One is it was just limited access to Parkcenter and we wanted to coordinate with the
highway district. So we combined all of those uses so our access comes off of shared access
with Alterra and Primary Care and then our west side of the northend it comes out where Delta
Dental is built. So we have got a loop road that is more or less a kind of a vehicular parking
cross access easement that feeds all of those properties. But again no access to Meyers. At one
time we had kind of a temporary pedestrian access, but what happened was the neighborhood
was using that as a vehicular point and they were driving through our landscaping so we installed
a larger berm to discourage that. So the frontage that you see on Meyers is just to provide for the
subdivision

Commissioner Ellsworth: Scott just take us through the City’s thinking on the sidewalk. It’s a
requirement of the subdivision. You have a subdivision committee now. They have
recommended this?

Mr. Spjute: This staff report is written by our subdivision staff. There is no committee it is just
staff. Staff is just holding the line that these sorts of situations we are not going to get street
improvements unless we require them. We require them even if it comes piece by piece. We are
just trying to be consistent in our application of the ordinance and in our recommendations. So
in these sorts of situations you will almost always see a staff recommendation or the street
improvements. Then we bring it to the Commission which with Solomon like wisdom looks at
all of the aspects, including what the Highway District said and what the applicant has had to say
and then makes a recommendation then to City Council. We are just trying to be consistent in
requiring street improvements just about wherever we can.

Commissioner Ellsworth: OK. Thanks.

COMMISSIONER BRUNELLE MOVED THAT WE APPROVE SUB06-00074 AND ALSO
STRIKE CONDITION NO. 1.
COMMISSIONER ELLSWORTH SECONDS THE MOTION.

Commissioner Brunelle: I like what the Highway District had to say in this case. I am persuaded by the Highway District and I hope our staff does not take affront to that. In this cul-de-sac corner of SE Boise it just seems to me that adding a requirement for sidewalk isn’t necessary. Furthermore, given the proximity to Loggers Creek the more permeable ground that we maintain in that area the better for the water quality. Rather than adding sidewalk which will lead to more run off rather than percolation into Loggers Creek.

Commissioner Ellsworth: I think staff has got it right most of the time on sidewalks curb and gutter and I think it is important to be consistent and add sidewalks for connectivity, but I also think it is important to recognize the rural character of some of these old neighborhoods and this is the recommendation from ACHD and the applicant. I think that is enough for me to support the motion.

THE MOTION CARRIES UNANIMOUSLY.

PLANNING & ZONING COMMISSION MINUTES TO BE APPROVED FROM THE SEPTEMBER 11, 2006 - COMMISSIONER ELLSWORTH MOVED FOR APPROVAL. COMMISSIONER WILSON SECONDED THE MOTION AND THE MOTION CARRIES UNANIMOUSLY.

Meeting adjourned.

Approved:

_____________________________
Gene Fadness, Chairman
Planning & Zoning Commission

Date: _______________________
Planning & Zoning Commission

Hearing Minutes of
October 9, 2006

Commission Members Present
Brandy Wilson/Chairman, Doug Cooper, Andy Brunelle, Brian Ellsworth & Tony Orman.

Staff Members Present
Susan Riggs, Cody Riddle, Bruce Eggleston, Lance Evans, Scott Spjute, Vicki Van Vliet, Angie Brosious & Mary Watson (Legal).

Deferrals

CUP06-00082/Metro Hotel, LLC. – COMMISSIONER BRUNELLE MOVED TO DEFER TO NOVEMBER 11, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00055 & CAR06-00056/Patrick Telleria – COMMISSIONER BRUNELLE MOVED TO DEFER TO NOVEMBER 6, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00089/Robert W. Grasmick
Location: 9220 W. Ustick Road
REQUEST A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 668 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO INDUSTRIAL LAND USE MAP.

SUB06-00079/Brillheart Subdivision
Location: On the west side of S. Curtis road north of Henry Street
9-LOT INDUSTRIAL SUBDIVISION

SUB06-00085/28TH Street Place Subdivision
Location: On the east side of N. 28th Street south of Hill Road
14-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.
SUB06-00086/Payette Creek Subdivision
Location: On the west side of Lindsay south of Victory
6-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00087/Maranatha Subdivision
Location: On the north side of Fairview on the east side of Cloverdale
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00089/Clearbridge Subdivision
Location: On the southeast corner of Clearview and Collister
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION

ON THE CONSENT AGENDA, COMMISSIONER BRUNELLE MOVED TO APPROVE
THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF
LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF
REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00055 & CAR06-00056/Patrick Telleria
Location: 3400 E. Barber Drive
REZONE 20 ACRES FROM A-1 TO C-2D/DA.

Cody Riddle presented the staff report with a recommendation of approval.

Jane Suggs (Applicant’s Representative/200 Louisa St./Boise, ID.) – We did file our application
to C-2. We discussed this with other staff members at length and had a pre-application based on
that, but after further review and looking at the C-4 zone we do think that’s an appropriate zone
here. There are no development plans for the property at this time. The C-4 zone does require
that any further entitlement, or any development on the property, will require a planned
development through a conditional use permit. That means that anything that happens on the
property will come back to you with a master plan first as part of the development agreement
requirements and then a planned development after that. The meat of this rezone is in the
development agreement. Staff has outlined those recommended modifications to the
development and it’s in the staff report on the last couple of pages. We agree with those
modifications, we just ask for a couple minor revisions. You might have seen a letter that was
just submitted today based on our meeting with the staff last Friday. In that there is one section
of the development called uses permitted by this agreement. In that statement that will be in the
development agreement we’re only asking that the uses allowed pursuant to this rezone as… to
this agreement shall be those uses allowed in the C-4 zone and this is the additional language we’d like to see: “with the addition that the existing nursery can remain on the C-4 zoned portion of the property.” As you might be aware a large part of that property is not only the Telleria home but also an existing nursery so when the property was annexed the nursery was in existence. It was given the A-1 zone which really isn’t compatible with the existing nursery. This part of the development agreement would allow that nursery to remain without having to go through any other permitting processes. If the nursery were ever enlarged or changed in any significant way there would be a conditional use permit required. But as the nursery stands today, it would be allowed to stay on the property. We’re asking for that minor change in your recommendation of approval. Staff supports this change too. We’re also asking that in the part about the bridge construction, this is the traffic condition found in G on the last page of the staff report, in the second sentence we see that there is an approval of the development based on a threshold of 14,175 vehicle trips per day at Warm Springs and Walnut. We don’t disagree with that and we understand that that is a condition that has been placed on other developments within the Barber Valley that come before Boise City for approval so we ask that that be consistently applied to other developments that might come through in that same area. What we are asking is that in the second sentence that there is a statement: “If development is to occur prior to bridge construction…” and we need to clarify that if that’s bridge completion, bridge beginning of construction, the letting of the contracts so we might to just get a wording change there to understand what bridge construction means there. Tied to that is something for consideration. We agree that the consistent application of this is really our main concern is that all the properties that are looking at being changed or developed in that area be given the same traffic consideration mitigation requirements. We’re also asking that you might consider the fact that prior to the bridge actually being completed, that you might think about allowing development applications to be submitted, development applications to be approved and even utilities and some roadway construction to be completed. In that one condition that’s in the development agreement we might ask that you would consider the language that says instead of approval of any development prior to completion, you might consider approval of any building permits prior to completion. Again it is the building permits and the homes and businesses that will be built in that area that will add to the traffic. This happens quite often when there are traffic improvements that we can coordinate development of private properties at the same time those public projects are being completed. That would also mean that in the second sentence of that particular requirement we would say if building permits are to be issued prior to bridge construction or bridge completion or bridge start, and again there’s some clarification needed there, a detailed traffic analysis and mitigation plan would have to be submitted and approved. We do agree with the compatibility and design statement that’s included in the development agreement. We certainly want to be compatible with the Harris Ranch Master Plan, whichever master plan might be in effect at the time of any development of the property. We also agree with the requirement for a master plan. Of course that’s something that’s part of your Comprehensive Plan, it’s not part of the ordinance, but we do agree that would be a good use of master planning in this particular case. In conclusion we request that you approve the rezone of 3400 Barber Drive to C-4 with a development agreement. Of course you will see in the staff report that does exclude the area that’s in the foothills, we’ve agreed to that. That will remain as
A-1, and including the modification to the development agreement to allow the existing nursery to remain, a clarification on bridge construction that we’d ask for you to clarify in your motion and a consideration of changing the word “development” to “building permits.” That might allow some development applications and even some utility work to occur prior to the bridge construction.

Commissioner Brunelle – We dealt with this question about bridge construction versus completion versus something else when we had Clark’s deal at Gate City. I would seem to me, even though it’s not in Barber Valley, it’s tributary to the Walnut/Warm Springs control point, where we measure our traffic. It seems to me we ought to be consistent with what is there. What did we decide on that?

Mr. Eggleston – The statement is something to the effect of the standard is that Warm Springs or Walnut, at that 14,175 average daily trips, and when there is room to accommodate additional traffic, then the permits would be allowed for, I’m citing the Boulder Heights approval for that language, it’s not tied to the bridge per se, but the bridge presumably would allow that capacity to happen.

Commissioner Brunelle – So, Bruce it would sound like the word completion is probably the closest?

Mr. Eggleston – Correct, when the capacity is available.

Commissioner Brunelle – Thanks.

Commissioner Wilson – Further questions for staff or applicant? I need just one more check, is there anyone in the seating that would like to provide any testimony? Okay…closing comments by staff?

Cody Riddle – Madam Chair, just briefly regarding the construction of utilities prior to construction of the bridge, we would prefer to visit that through the Master Plan process if you would propose and amended language there to where, when a Master Plan is submitted we could look at the appropriateness of installing utilities and things of that nature then.

Commissioner Wilson – Any final questions for staff before we go to rebuttal? Staff or applicant? Okay, rebuttal by applicant.

Jane Suggs – I just want to clarify here that the, uh…we’re talking about not bridge construction but we’re talking about bridge completion and that would be consistently applied as you requested, Commissioner, to all of the developments in that area and that works for us. And that we could consider asking for some possible, some development of applications could be accepted and approved prior to bridge construction and actual utility work and possible road work but no building permits prior to bridge completion, so this condition wouldn’t keep that
from happening. I just want to clarify that if a Master Plan comes in for the project that there would be an opportunity to ask for that, that this developmental agreement would not prohibit that. Is that what I’m understanding?

Commissioner Wilson – I believe so.

Jane Suggs – Okay. And umm…you agree with the change that allows the nursery to remain? I don’t think staff really addressed that, but yeah. Okay.

Commissioner Wilson – Yeah. He nodded when you were talking, so…

Jane Suggs – Thank you.

Commissioner Wilson – That just didn’t show up in the record, I’m sorry. Alright, with that we will close the public hearing and deliberate towards a decision.

Commissioner Wilson – The folks up here just taking a minute to make sure we get all of the wording lined up before we start making motions ‘cause they put those in all capital letters in our meeting minutes so we get a little nervous when we start to do that.

Commissioner Cooper – Madam Chairmen…

Commissioner Wilson – Commissioner Cooper…

Commissioner Cooper – I’ll make a motion to approve CAR06-55 with the following revisions and hopefully I get this right, the development agreement to alter statements to say that the existing nursery can remain on a C-4 Zone portion of the property under recommended modification 1-G that the development occur once traffic capacity is in place with completion of the bridge. I think that’s all.

Commissioner Wilson – Do we have a second?

Commissioner Brunelle – Second.

Commissioner Wilson – Alright, we have a motion and a second. Discussion?

Commissioner Cooper – Madam Chairmen?

Commissioner Wilson – Commissioner Cooper?

Commissioner Cooper – I guess my only comment is that I didn’t address the building permit statement. The idea that that would be addressed during the Master Plan phase of the project.
Commissioner Wilson – Okay. Further comments? All those in favor?

All Commissioners – I.

Commissioner Wilson – Motion carries.

**CAR06-00050 / GEMSTAR PROPERTIES, LLC**

**Location:** 3750 S. Maple Grove Road

**REQUESTS APPROVAL OF A COMPREHENSIVE PLAN LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 9.8 ACRES FROM ESTATE DENSITY (3 DU/ ACRE) TO LOW DENSITY RESIDENTIAL (6 DU/ ACRE).**

Cody Riddle - Presented the staff report with a recommendation of denial

Commissioner Wilson – Thank you, any questions for staff? Alright, then next we will hear from the applicant.

Ashley Ford (Planning Project Manager, WRG Design/ 453 S. Fitness/Eagle, Idaho) – May I approach?

Commissioner Wilson – Thank you. For the record we have received a set of handouts from the applicant.

Ashley Ford – Honorable Chairmen, members of the commission. I am here tonight on behalf of my client, Gemstar Properties. First of all, we really do appreciate Cody and the work he’s put forth on this project. Obviously, we’re disappointed we are here before you this evening with a recommendation of denial. My client always does their best to try and work these things out before we get here but, unfortunately, we’re just at a point where we simply agree to disagree. To begin with, we respectfully disagree with staff as we believe there are several compelling reasons as to allow a comprehensive plan amendment from a state density 3 to a low-density 6 on this site. First, this site is less than 1,000 feet from the current planned community designation on your comprehensive plan. Second, the overall density of the square mile for this development lies within this development is approximately 1.6 dwelling units, even with this development as proposed, and there is currently very little land left in this square mile left for redevelopment. Third, this site is located within ½ mile of major employment and regional shopping opportunities. Fourth, the presidents of several other developments within the square mile that were also underneath the state density 3 dwelling units per acre designation and were approved with R-6 and R-8 zoning, and you can see these on the existing land use map that I have provided you this evening. The fact that the comprehensive plan is just a guide and does allow for flexibility for changing conditions and that is the reason why we’re here before you this evening. And, lastly, the demographics for the Treasure Valley have changed a lot since 1997 and they are continuing to change and there is a need for diversity of housing, such as this, that is
within’ an amenity-rich development. Before I continue, I’d like to back up and give you a little history regarding this site and our request. In July 2005, an application for a rezone to R-8 with the development agreement, a master site plan, a planned unit development application and a preliminary plot application were filed with Ada County Development Services. Prior to making the application, County staff felt comfortable that the applicant was meeting the overall intent of the Boise City Comprehensive Plan on a large scale as, again, the overall density for the square mile was well under the state density 3 dwelling units per acre. And the chances for the overall development were very slim due to the already existing land uses within’ this square mile. In addition, there have been several developments that have been approved as area-of-impact subdivisions by both Boise City and Ada County at much higher zoning designations than a state density 3 dwelling units per acre land use designation and were not required to go through the comprehensive planned land use map amendment. And these developments are, again, shown on your existing subdivisions handout. However, after making the application, County staff believed it would be in our best interests to peruse a map amendment due to a new policy at the time that the City of Boise would not extend municipal sewer services to any area-of-impact subdivision that they did not support. County staff felt that we should go through this process with the City prior to moving forward with these applications. With that recommendation, the project architect and I met with Boise City staff to discuss the site plan and what we would like to achieve with the project and this was the site plan that was presented to staff. We were told by both City Planners that we met with that they felt that we were proposing a project that could be supported by a comprehensive planned amendment due to a myriad of reasons. First, again, we are adjacent to the future, 160 acre, Murgoitio Park. They felt the proximity to the large regional park warranted higher densities. Second the overall design of the project and the proposed elevations. Third, the numerous amenities being presented with this project. Fourth, the fact that this is truly in-fill, although it is area-of-impact. Fifth, the likelihood that the Boise School District would be constructing a Junior High School immediately to our east of this site. And, lastly, it’s only Murgoitio Park that is separating us from the planned community designation. Staff’s overall recommendation was to submit a comprehensive plan map amendment request and to make sure we submitted our proposed concept plan to help to sell the project and that is exactly what we have done. So thus, we submitted the concept plan for Piazza Park and while we understand that this is not for approval this evening, I would like to walk you through this a little bit. And, as you can see by the elevation renderings, which are on the very top of the board, and on the handout I have given you, most of the town homes are in groups of three and four. As currently designed, the overall development contains 66 single-family townhouse lots, and the overall density is 6.85 dwelling units per acre. We put a lot of thought and effort into this architectural feature. Each unit has different front and rear facades, allowing for modulation in setbacks and appearance. In addition, the town homes in each grouping vary between one and two stories in height, allowing for variation. It is also important to note that the proposed town homes that the garage will be setback greater than the living space and this will allow for a more scenic streetscape than the usual garage dominance in many residential developments, and the main jewel of the development is intended to be the park. There are many amenities associated with the park. The park includes a putting green, bocce ball, shuffleboard, a large gazebo with barbecue equipment, a tot-lot, a walking track, and a community garden. And while the marking
of this project will not be limited to older, active adults, we believe this market will be attracted
to this development due to the amenities, the close proximity to shopping and the location next to
the park. And, in addition, we envision younger families will be attracted for the exact same
reason, along with the opportunity to be near employers located in the industrial parks along
Victory road. We appreciate staff’s analysis of the land-use policies applying the specific area
and are sensitive to those policies…primarily policy 8.13.12 which states: “Properties on the
south side of Overland road, north of the planned community designation are intended for
subdivision and development and densities generally between 2 and 4 dwelling units per acre.
When development occurs in the county, the zoning that should closely replicate the R-1B
should be selected.” But it goes on to say that “if open space is provided that approximates that
required by the Boise PUD requirements, county subdivisions may exceed 3.5 dwelling units per
acre.” And this project will meet or exceed the Boise PUD requirements for amenity and open
space, and Ada County requirements as well. To summarize, we realize we are only here for the
map amendment this evening and that you, the commission, need to be able to make adequate
findings in order to recommend approval for the council. In that packet that I have provided you
this evening we have provided you a memo outlining our proposed draft findings. We believe
the following: Finding A. That the amendment is required for the public convenience or
necessity or for the general welfare of the community. Okay, the site is located within a half
mile of major employment, and within one mile of regional shopping opportunities, and, again,
demographics of the Treasure Valley are changing and there is a need for a diversity of housing
as this rather than the standard single-family residential subdivision that you see in this area.
Finding B. That the amendment is necessary to address changes and conditions within the
community that have occurred since the Comprehensive Plan was adopted, or as necessary to
correct one or more that exist in the plan. We believe the precedence of several other
developments, within the square mile, that were also under the state density 3 designation and
were approved with R-6 and R-8 by this council show merit to changes of the conditions. Also,
the acquisition of the 160-acre Murgoitio Park to the south since the comprehensive plan was
adopted is a change, the likelihood of a new junior high school on the property immediately to
the east, and to mention, again, the demographics of the people of the Treasure Valley have
changed since 1997. Finding C. That the amendment is in compliance and will further the goals,
objectives, and policies of the plan. Finding D. That the amendment will not create
inconsistencies between the goals, objectives, and policies. I would like to refer you to pages 2-5
in my letter or intent dated August 28th, 2006, for assistance with these findings. I have about
two pages worth of findings that Cody mentioned to you, mostly in the community design
standards, but I do believe that these are consistent with findings C and D are needing. Lastly,
Finding E. That the amendment will not place an undue burden on transportation or other public
facilities in the planning area and does not adversely impact the delivery of services by any
political subdivision providing services. Adequate services are available such as water, sewer,
power, and gas, and they are currently within Maple Grove road, and we do have will serve
letters from all the utilities, and the project does take access from Maple Grove road, which is
classified as a minor arterial at this location. In meetings with ACHD, they did not have any
concerns with our traffic impact. We also asked if we needed to do a traffic impact study. They
said, “no.” However, if the appropriate jurisdiction at the time of our development feels it is
necessary, we’re happy to do so. It is not a problem at all. In closing, we believe there are adequate findings and compelling reasons that can be made for approval for this map amendment. We hope you agree, and we respectfully request your recommendation of approval this evening. I am happy to stand for any questions you may have. Thank you.

Commissioner Wilson – Any questions for staff or the applicant?

Commissioner Brunelle – Cody, I’d like to hear your take on the draft findings that Ms. Ford provided us, in particular Finding A, as that seems to be the crux of the matter as far as being able to make a finding that the amendment has required for public convenience or necessity, or for the general welfare of the community.

Cody Riddle – Madam Chair, Commissioner Brunelle, as I stated before, staff felt that the amendment isn’t required for public (gentleman coughing), rather it’s just to double the allowable land density on this site. Further, I’m not sure what the major employment center is that’s within a mile of the site. I assume, maybe, the school district development along Victory road. Other than that, staff didn’t feel this finding was met.

Commissioner Wilson – Would the applicant care to address the staff’s question about the employment center?

Ashley Ford – Absolutely. You know, I work for the City of Boise for two years, and during that time between 1999 and 2001, I approved several light industrial business parks that sit between Maple Grove and Five Mile on the north side of Victory road. There are a lot of things happening in those business parks. I’m not sure how familiar you are with that area. I drive by there quite often. There is quite a bit of an employment base there. People obviously want to live near where they work; I’m one of them. Unfortunately, I can’t afford to live in Eagle, but, that aside, people do look for those tendencies, and I think those industrial projects have come on board since the adoption of this Comp Plan. I think the demographics are changing, people don’t want to have to commute. Obviously, I do that. It’s not a whole lot of fun. Also, I think one of the things that we need to look at is higher densities in areas where it makes sense, especially for a site that is very difficult at best, that is constrained by uses, and we need to make use of also the Murgoitio Park as well. You will go through the park and recreational Comprehensive Plan chapter and it does encourage higher densities next to the parks. We really think we have met that finding honestly, and I’m happy to stand for any more questions you may have of me.

Commissioner Wilson – Further questions for staff or the applicant?

Commissioner Cooper – I got a question for Cody. On this little piece of Comp Plan Map it shows the parcel just north of the canal is has a lot of similar colors, maybe I’m misreading it, but it looks to me like the area designated as planned community is the same as the area designated for the park. Is that right? If it’s wrong, what the parcel that is planned community?
Cody Riddle – Madam Chair, Commissioner Cooper, the actual land use map from the Comp Plan is here on the screen. Maybe that clarifies things for you? Does that clarify?

Commissioner Cooper – Could you point to the planned community parcel again?

Commissioner Wilson – So Cody, it’s the green crosshatched areas that’s the planned community, then the planned community designation, and then the solid green is the park.

Cody Riddle – Madam Chair, that’s correct.

Commissioner Brunelle – Cody, back on this Finding A. The question I have is what would we be looking for when we do talk about public convenience or necessity, or general welfare? We are not looking at these questions about, I guess you could say, are economic or employment related. What are the goal posts that these folks need to be able to kick the ball through?

Cody Riddle – Madam Chair, Commissioner Brunelle, I believe they probably are on the right track with this finding, based on their justification, that additional density in this area may be appropriate due to the location of those employment centers, however, a combination of all the findings failed to be met, so their justification on this specific finding is probably on track.

Commissioner Wilson – Further questions for staff or the applicant? Okay. I don’t have anyone signed up on the sign up sheet. Is there anyone who wanted to testify on this application this evening? Alright, I don’t see any takers so Commissioners this is your final opportunity for questions before we go to closing comments. Alright, any closing comments by staff? Okay, rebuttal by applicant? Alright, well with that we will close for the public hearing and the commissioners can deliberate towards a decision.

Commissioner Brunelle – Madam Chairman, I will go ahead and get things started with a motion and we’ll probably want to have a little discussion here, but I’m going to move for a denial of CAR06-00050 consistent with the staff report.

Commissioner Wilson – Do we have a second?

Commissioner Cooper – I’ll give you a second for matters of discussion.

Commissioner Brunelle – What I want to point out to the commission is what we’re doing here is making a recommendation to the City Council, who ultimately will make an amendment to the Comprehensive Plan Land Use Map. I think where the biggest problem with this is is with that first finding that we have to make that amendment required for public convenience through necessity or for the general welfare of the community. The applicant did give us some findings here, but I think that there is something missing when we talk about things like general welfare. It just seems to me that the words that are used in that portion of the Boise ordinance would be speaking to things about public infrastructure, transportation, public use, rights-of-way, and
public safety. There needs to be some sort of consideration brought in on that, and I think the staff is correct in where they headed with this for those reasons, and that’s why I would recommend that we would support denial of this in our recommendation to the City Council.

Commissioner Wilson – Further discussion?

Commissioner Cooper – Madam Chairman, I think I’m being swayed by Commissioner Brunelle. I tend to agree that it would be potentially good to have some higher density here, but I don’t see a city-wide land need for it, and I’m not convinced that it’s a general requirement, but it is more of a specific to this application.

Commissioner Wilson – Further discussion?

Commissioner Ellsworth – Madam Chairman, I guess I would argue that you could say that this general welfare requirement could be met by increasing density if we’re really trying to mitigate urban sprawl, and so anytime we get a chance to increase density, especially when there is no opposition, we might be benefitting the general welfare of the community. Unless we’re trying to protect open space because there is a planned community that’s going in next to it and the planned community is gonna use the infrastructure that’s out there, then maybe this makes sense. So if you kind of tie that together with this parcel then maybe it doesn’t meet that. Is that kind of what we’re thinking here, because there is a planned development down the street that it will eat up traffic and utilities that are out there available to this area?

Unknown speaker - Madam Chairman and Commissioners, that raises good points I think both in favor of the applicant, as well as what the staff report is. The planned community is clearly going to be higher density. This is an area that, as its developed, in many of the surrounding areas I conceptually could support a higher density, but I guess I’m having trouble just getting over this public convenience or necessity, or for general welfare question. I know we’re not supposed to get into the proposal itself, because we’re really just talking about changing the map, but it just seems to me that, you know, if you’re gonna have west Junior High school, which I think is the one that would be built direct due to the east, and you’ve got a large city park due to the south, maybe there is some sort of public convenience that needs to be part of the design of this. I don’t know if there needs to be connectivity from this property for future development to those other parcels or not, and I don’t think that should be a point of leverage on our approval at this point in time, but it would just seem to me that those are the kind of the questions should be asked and that maybe staff was trying to get at. So, it is a hard call for me, but I just kind of stuck on this public convenience necessity and general welfare question.

Commissioner Wilson – Well commissioners, I won’t be voting unless there is tie, but I tend to agree with Commissioner Ellsworth that we can make Finding A with the general welfare of the community with the increasing density. I think that if we can increase density and foster more options for alternative transportation by increasing the amount of rooftops, then we can improve air quality and get out a lot of those other comprehensive plan goals that we have. And this is a fairly small parcel that’s surrounded by what will be a lot of open space with that park and with
the Junior High. So I think that we could make that finding just based on those. Any other discussion?

Commissioner Cooper – Madam Chairman, I was just looking at the very helpful documents that were submitted this evening. Particularly, the land use one and I, you know, this future park is surrounded by density’s similar to what is being proposed here and it occurs to me that if we were looking a…not a Comp Plan amendment, but a rezone and a plan that it would probably be very encouraged to approve it. It is the fact that we’re not supposed to be thinking about those things that I’m having trouble with.

Commissioner Wilson – Further discussion? Alright then, we’ll go ahead and call for a vote, unless you have any other comments? All those in favor of Commissioner Brunelle’s motion to deny the project vote “I.”

Two Commissioners – “I.”

Commissioner Wilson – Opposed?

Two Commissioners – “I.”

Commissioner Wilson – Well I guess this is a tiebreaker, and I’m going to vote “no.” So, we’ll entertain a replacement motion.

Commissioner Ellsworth – Madam Chairman, I make a motion that we approve CAR06-00050.

Commissioner Wilson – Do we have a second?

Commissioner – Second.

Commissioner Wilson – Discussion?

Commissioner Ellsworth – Well, I think we’ve talked about some of the findings in our conclusions with…in particular, Finding A…How we can send a finding onto City Council that mitigating urban sprawl and increasing density is of the things that’s supported in the Comp. Plan and does meet the general welfare requirement of Finding A. And I really think that the applicant and the city have given us pretty good findings on both sides, so I think that we have the findings in front of us given to us by the applicant that are taken out of the Comp. Plan and those are entered into the record and can be used to support this.

Commissioner Wilson – Alright, further discussion?

Commissioner Cooper – Madam Chairman, despite my previous vote I think I’ll support this motion. I would add this statistic that keeps sticking in my mind and that’s that it relates to Finding B that an amendment is necessary to address changes and conditions within’ the community. I think that two-thirds of the households in Boise are now two people or less. So,
that really points to higher density developments and I think I’m already convinced that that’s appropriate here.

Commissioner Wilson – Further discussion?

Commissioner Brunelle- Madam Chairman, just a couple of comments. I’ll be voting “No.” I’m not swayed that this will all help do something about sprawl. Unfortunately, we have other local government that are approving development outside of the city that are adding to sprawl and I don’t think that this is going to take the wind out of their sails at all. So…I’m not swayed by that. The second thing though that would be helpful, I think we’re gonna have a couple more of these tonight, but for staff I think over time would probably on questions about public convenience, general welfare, there ought to be some sort of guidance or clearly a track record because I’m sure it has gone on for a long time that how we should define these terms and be able to give a applicants, as well as a commission, clear idea on what we’re talking about. Maybe sprawl and I mean sprawl does fall into that…I don’t know, but I’m not on board with that tonight.

Commissioner Wilson – Thank you, Commissioner Brunelle. Further comments? Alright, all those in favor of the motion to approve this application?

Commissioners – “I.”

Commissioner Wilson – Opposed?

One Commissioner – “No.”

Commissioner Wilson – Motion carries.

CAR06-0049 / Dorothy McKay

Location: 9840, 10512 & 10558 W. Hill Road Parkway

REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 17.64 ACRES FROM THE FOOTHILLS PLANNING AREA TO NORTHWEST PLANNING AREA WITH LOW DENSITY RESIDENTIAL 4 DESIGNATION ON THE LAND USE MAP.

Bruce Eggleston presented a recommendation of approval.

Alright, so we’ll move onto…Actually, before we start the Quasar I would like to jump ahead on the agenda to agenda item number seven, which I think we can take care of fairly quickly. Is there anyone here who would like to testify on this topic? Testify in opposition to this application? Ok. Since we have no adverse public testimony I would like to ask for an abbreviated staff report…or, if the commission pleases, we could also just waive the staff report?
Bruce Eggleston – Sure.

Commissioner Wilson – For waiver? Okay. We’ll go ahead and waive the staff report; we have any questions for you. The applicant, do you have anything that you would like the present or anything you’d like to bring up for us?

Richard Stover (300 N. 6th St. Boise, ID. 83702) – Madam Chair, my name is Richard Stover, on behalf of the applicant.

Commissioner Wilson – Would you please state your name and address?

Richard Stover – Sure. Madam Chair, members of the commission, I’m Richard Stover. Generally speaking, I wouldn’t have had much, if anything, to add to the staff report. We support everything that they have mentioned in the staff report. From what we understand, there’s no opposition from the neighbors, particularly folks that were added into this application by staff. And, in fact, from what I understand at least one of those neighbors did call the staff recently to indicate their support for including them. With respect to the proposed findings (we think they are accurate), I have a few things that I do wish to add to those. Obviously, the first one is the topic of some contention today at the proposed application, in addition to the proposed findings by the staff. I’d also like to point out again that first of all, there are no development plans that are imminent. This is essentially a cleanup since the ‘97 resolution when the 160 acres just to the north of these properties were seated to the city of Eagle, left in isolation out there. So the applicants, although there are no immediate development plans, this would address some of the benefits to the community. One such is mentioned in the staff reports and that would be that any such development, there would be a commission on there to add a bath along the canal to access would maybe…helps property above this. We are aware of the fact that because this is in the foothills area, and any such application like this should be viewed with caution. I’d like to address the commission’s attention to the pictures that were submitted with the application. I think you’ll find that, as was stated in the letter of explanation, this is not really a foothills-type property, it’s very flat up there. Inspection of land has revealed no real wildlife corridors, there’s certainly not really any Riparian areas or endangered species issues. Any future uses of the property would have very little (if any) impact to the surrounding neighborhoods. The only property that would maybe potentially change its use that we’re aware of is my clients, Dorothy’s. She would not be doing any of that herself…this is just a cleanup for her and gives her some flexibility down the road. Additionally, from what we understand from ACHD’s perspective, there are no issues with respect to transportation and other public services. With that, members of the commission, I think that this staff report speaks for itself and we’re in support of that and I’d stand for any questions.

Commissioner Wilson – Thank you very much. Any questions for staff or applicant about this application? Alright, thank you. This is your last opportunity for questions, and then we’ll go to closing comments. Okay, any closing comments from staff who never had any opening comments? (laughs)
Commissioner – No, Madam Chair.

Commissioner Wilson – Oh, good. Thank you. Anything else? Alright, with that we’ll close public hearing and deliberate towards a decision.

Commissioner Ellsworth – Madam Chair, I make a motion to approve CAR06-49.

Commissioner Brunelle – Second.

Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairmen, I think that the staff has all of the right findings regarding the decision. In the staff report, I read through it and it’s basically a cleaning up of this…probably really shouldn’t be considered foothills. I do think that it should be a pretty hard bar to remove anything from this area…work that went into the Foothills Plan and it’s been tried before and I think this commission takes it very seriously. I think that staff and the City looked at this piece of land and they clearly support it, so I don’t have problems with reasons.

Commissioner Wilson – Thank you. Further comments?

Commissioner Brunelle – Madam Chairmen and commission, I’ll support the motion. The one concern I do have is there was nothing here in the record, no comments from city parks and recreation, no comments from the City’s Foothill Advisory Conservation Committee. I think that we need to pass this stuff by these folks or extract a response from them. Maybe you did pass it by them and I see Scott nodding his head…so sometimes those requests for information go unanswered. And there still would be a chance, I would hope, that they could at least weigh-in when the City Council looks at this Comprehensive Plan change. I do have some concerns, and Bruce and his report pointed it out that we shouldn’t be setting precedent and removing some of these areas. My response to that is I think that horse left the barn with Gate City Steel and I think we’re now on the disturbing trend (is what I would call it) or disconcerting trend that we are removing areas and I think we need to take a hard look at them. Yes, these properties do not have the foothills values of wildlife habitat, recreation, things like that that clearly set out the icon if this city and Mr. Stover, on behalf of the applicant, I think pointed that out adequately. But we also have to remember that we drew the lines around a planning area, what the purpose if there would be lands within’ that planning area that would be developed, and that they don’t all have the highest habitat quality. There is an argument for keeping some of these areas in the foothills, in order to be able to cluster development and to help leverage some additional open-space protection. I’ll support this motion with the hope that at least the Foothills Advisory Committee or city parks could at least have some comments for the City Council when it goes on their agenda.
Commissioner Wilson – Thank you. Further comments? All those in favor of the motion vote “I.”

All Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. With that, we’ll be taking up items 4, 5, and 6 on the agenda together.

**CAR06-0041 / Quasar Development**
Location: 916 E. Park Boulevard
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 1.738 ACRES FROM COMMERCIAL DESIGNATION TO MIXED-USE DESIGNATION ON THE LAND USE MAP.

Susan Riggs presented the staff report with recommendation for approval.

**CAR06-00042 / Quasar Development**
9163 E. Park Boulevard
REQUESTS APPROVAL FOR A REZONE OF 1.738 ACRES FROM C-3D TO R-OD

Susan Riggs presented the staff report with recommendation for approval.

**CUP06-00056 & CVA06-00023 / Quasar Development**
Location: 916 E. Park Boulevard
REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT A CONDOMINIUM PROJECT CONSISTING OF 90 RESIDENTIAL UNITS WITH RETAIL/COMMERCIAL ON THE 1ST FLOOR ON 1.74 ACRES LOCATED IN A PROPOSED R-OD ZONE. THIS INCLUDES A REQUEST FOR A HEIGHT EXCEPTION AND SETBACK VARIANCES ALONG E. PARKCENTER BLVD. AND E. PARK BLVD.

Susan Riggs presented the staff report with recommendation for approval.

Commissioner Wilson – So, we’ll start with the staff report. Susan?

Susan Riggs – Madam Chair, members of the commission. As a note, the commission received an e-mail today from Richard Ripple (and from John Knipe that was submitted to you before the meeting this evening. We also received a letter that was submitted to you from the Downtown Boise Association in support of the development, as well as a petition and opposition to the development with 48 signatures and this is a petition that was submitted in May. The other previous petitions that were not included in the staff report are in your packet because they pertain to the original application on the submitted early this year. The applicants met with the planning director and staff several times to discuss how to actually proceed with this conditional use application and for the mixed-use development. The existing zone, as you know, is C-3D.
and that allows a density of 43.5 DU/acre. The applicant is proposing a density of 52.2 dwelling units per acre. With the removal of density bonus from the zoning ordinance, which occurred last March, staff examined several different strategies that could possibly fit the existing neighborhood. For the following reasons, the R-OD zone seemed to be the best fit, allowing 87.1 dwelling units per acre. Based on the demographics of the area, the mixed-use land designation will be compatible and appropriate land-use designation and will accommodate the appropriate R-OD zoning and the proposed density. The adapted regional demographics and communities in motion model show that the traffic analysis for zone 36 (which is this) in 2005 estimated 68 households. In 2030 the forecast is for 187 households. This will fall in the sum, this proposal for additional 90 DU would fall into that forecasted model. In this mixed-use land designation is a logical classification into this location. It will provide a transitional buffer between the commercial office development on Park Blvd. and the adjacent medium density residential town homes to the East, which is Strawberry Square, and the higher-density apartment units, which are to the South. Staff finds that the land-use amendment and the rezone are in compliance with the comprehensive plan and that they will further the goals, objectives and the policy of that plan. Objective 8.1.3 states that the city should achieve a compact city comprised of a central downtown and surrounding neighborhoods that have a central focus combining residential, commercial, employment, civic, cultural, and recreational uses. Policy 8.3.13 encourages maintaining a land-use map that provides residential densities in and around the workplaces, shopping places and activity centers and along the designated transit routes. The site is located on the fringe of downtown, which serves as a major employment center. Front St. turns into Parkcenter Blvd. just North of the site and serves as a connection to the connector and this is a mixed-use corridor. Currently, the mixed-use designation terminates at Boise. However, staff feels that it is a logical continuation to continue this designation to the East. The comprehensive plan has many inter-connected policies that encourage development to look at mixed-use neighborhood settings and contribute to a viability of the neighborhood which provides services, neighborhood commercial use and employment centers. The site is located on a primary transportation corridor and is within’ walking distance to commercial businesses, restaurant, parks, the Boise Greenbelt, Boise State University and other recreational facilities in the area. As the city of Boise’s population grows, there is a need and demand for housing in and around the downtown area. Transit is available to and from the site with options to transfer to other bus lines. Transit is available to and from downtown. As the transportation cost and the traffic congestion increases, so does the desire to live closer to the downtown area, to the employment’s, to school, to shopping, etc. Moving on to the proposed development, is a brief overview. In January 23, 2006 a planning and zoning commission did review a proposal for 175-sq. ft. 12-story building. This building was 147-ft tall; it was a mixed-use building. After several meetings with the neighbors, the height request was changed from 147-ft to 119-ft. After listening to the testimony of neighbors on March 16th, the public planning commission recommended denial of the application. In March of this year, the city council moved to remove the 20% density bonus provision from the code, which has instigated the application for the rezone and land-use map. A new application is now before the commission. A first floor of the building will accommodate approximately 21,000 sq. ft of commercial space designed for boutiques, small restaurants, and maybe some office use. Parking for the commercial use, as
with the first application, is located behind the structure. None of the parking will be visible from the street, thus enhancing the new urbanism design of this building. The Boise city comprehensive plan encourages new development in the North and East End neighborhood to utilize the standards of new urbanism design. The balance of the project is residential; the applicant is proposing 40 1-bedroom units and 50 2-bedroom units and on the 3rd floor of the development the applicant is proposing a large garden terrace which opens up to a 7th floor. A fitness center with pool and spa, an interior atrium, they have skylights up to the roof-level. In addition to the public open-space, each of the outside units of the development will have private balcony space as well. Moving on to the height exception, the applicant is requesting to exceed the 35-foot height limit of the R-O zone. It was 45-ft in the C-3D. Our proposed building is 7-stories; the maximum height is 79.6 ft as it’s measured to the top of the elevator tower. The overall height of the building has been reduced by 67-ft from the original application. Building steps down in the center to 58-ft and then back up to 68-ft and 6 inches at the North end of the building. Originally, the residential units were concentrated at the South end of the building. The applicant has now distributed the height and mass of the building horizontally, across the structure, as opposed to concentrating it vertically, at one end. The proposed building is approximately 30-ft and 4 inches lower than the adjacent Washington Group Office building to the West, which is also a 7-story building that is 110-ft. Strawberry Square town-home that’s located across the street, across Parkcenter Blvd. The town homes enjoy (as you can see from this picture which is taken in the summertime) a large, dense, and mature landscape buffer consisting of evergreen and deciduous trees which is inside a 15-foot screen wall. This picture was taken in the winter and you can see that the foliage still provides reasonably dense coverage for the town homes, even though the deciduous trees have lose their foliage. The wall extends the full length of the development of Strawberry Square development along Parkcenter Blvd. The town homes are approximately 200-ft West of the proposed building, across Parkcenter. The development to the South, the apartment buildings, are approximately 100-ft, across Park Blvd. This is a 3-story apartment complex and it also enjoys the same benefits of your own foliage along Park Blvd. and Parkcenter Blvd. Moving on to the variance, the typical street setback in the R-OD zone is 10 ft. However, because Parkcenter Blvd. is identified as a gateway street and East Park Blvd. is classified as a principle arterioles, they do require a 20-foot setback. The applicant has requested a 10-foot setback of these streets. East Parkcenter Blvd. is constructed with a separated sidewalk. The applicant is proposing tree grades approximately every 50-ft along the Blvd. to provide a friendly pedestrian environment. Staff finds that there is an exceptional circumstance pertaining to the intended use of the property, which is not generally applicable to other permitted, uses in the district. The proposed setback along East Parkcenter Blvd. is 10 ft. However, the actual setback to the edge of the sidewalk is 27 ft. This meaning the intent of a 20 foot wide gateway setback. Although the building is not downtown, it is an urban development with storefronts proposed at the ground level. A variance will have no impact on the town homes located across Parkcenter Blvd. or to the apartments located across Park Blvd. In addition to the large setback, the 15-foot screen wall, as was shown earlier, will provide that separation from the property. Now, in the situation, all the parking is located within’ the building, it’s not visible from the street and that’s one of the intents of the gateway setback, is to provide a buffer for the parking. But again, in this situation the parking is not visible to the
street. The parking on Park Blvd. is going to be 27 ft, 7.5 inches from the back of curb. As with Parkcenter frontage, parking is not visible to the street and there is tree grades every 50-ft. In addition to the 100 ft of separation, there is a landscape median that you can see right here on Park Blvd. which provides even a further separation between the structures across the street. In terms of traffic, the Highway District did review the development plan and has no specific or general conditions or approval. East Parkcenter Blvd. and Park Blvd. are classified as principle arterioles. Both roads to operate a level of service C, acceptable level of service for these roadways is D. The applicant has hired Dobe Engineers to do an independent traffic study, and I’ll let the applicant address that tonight when they speak. The neighborhood meeting, the applicant held 2 neighborhood meetings which they’ll discuss with you as well. To date, staff has received the e-mails from Jamie and John Knipe, Tom Whitworth and Richard Ripple. Other than that, staff has not received any phone calls prior to this hearing or any other e-mails discussing this application. Staff is recommending approval of all 4 applications. I’ll stand for questions.

Commissioner Wilson – Any questions for staff at this point? Alright, next we will hear from the applicant.

Joann Butler – Good evening, commissioners. Sorry, was that too loud? Joann Butler, representing Quasar Development (251 E. Front St. 83702) here in Boise. And with me here tonight are Amanda Alvaro from Quasar Development, Shaun Nickel from SLN Planning and David Waldren from Waldren Architects. And Mr. Nickel will follow me briefly to talk about the planning process and those discussions with the neighborhood associations and Mr. Waldren will be reviewing the site plan and it’s further talk about the compatibility with the surrounding neighborhood in all directions. Of course, this proposal would also have to go through design review to show that we also meet design compatibility with the surroundings. So let me begin with…in connection with the comprehensive plan amendment and rezone, we are asking for a comprehensive plan amendment to the map. Just to the map, to get away from the intent C-3 zoning. Not that this particular land owner would use these C-3 uses, but the present C-3 zone allows (not by conditional use, but outright allows) uses such as intents of service and some industrial uses like service stations, bus stations, truck stops and truck terminals, mausoleums and mortuaries. When I found out about that, I had to ask myself “how did this property ever become C-3 given it’s location?” And I suspect it’s probably a remnant of the W-GI and K-1 that originally developed property development. But is certainly not appropriate in this area where Parkcenter Blvd. and the West Parkcenter bridge and especially when the East Parkcenter bridge is finished in the near-future (that was with fingers crossed), creates a gateway from the South and the East into our downtown area. At previous hearings, some people stated that the property owner should just live with the C-3 zone, implying that we were trying to skirt the zoning ordinance by asking for a change. But, quite honestly, the C-3 zone at this location, for this neighborhood, is something that ought to be seriously avoided. Staying the course with C-3 zoning will not help the neighborhood. C-3 zoning is a possible prelude to disaster, and the R-O zone with design review is, according to the professional planners, the appropriate zone to promote the public convenience, necessity, and welfare. And for Commissioner
Brunelle’s…convenience, necessity, and welfare is a phrase that’s not unlike the phrase “quality of life.” And what our courts have often tried to explain to us is that we’re talking about fairly sharing the benefits and burdens of our increasingly urban life. And so, when you’re looking at changes to planning, changes to zoning, you’re asking yourselves “Is it compatible? Does it help fairly share the benefits and burdens of our increasing urban life?” And if so, then it’s a good chance that we meet the public’s convenience and welfare. Of course, to rezone to R-OD, a comprehensive plan amendment to the map is needed. Please note, again, that it’s a map only. The comprehensive plan is made up of 11 different elements, the map is just 1 of them and is no more important than any of the either 10 elements and we are only attempting here to make that map consistent with the other 10 elements. To make the comprehensive plan map consistent with the text does not unduly burden public facilities, it makes the amendment to the comprehensive plan map consistent and promotes the goals and objectives of the comprehensive plan text, including the goals of the North and East end plan to promote new urbanism. So, as recommended by staff, we are respectfully requesting that commission recognizes the urban transitional nature, but for this nature of this mixed-use we are trying to straddle the higher intensity commercial use and the surrounding uses. So we are going to ask you to please amend the comprehensive plan so that it allows to rezone to R-O. Before I turn the podium over to Mr. Nickel and to Mr. Waldren (who will discuss compatibility further), I want to talk a little bit about the variance request and the height exception. With regard to the variance request, few know that that request is not an automatic right. But the commission does have the ability to grant that variance to the setback based on ____ (tape 1 #3680) hardship caused by the particular characteristics of the site or actions of others, so long as the variance does not conflict with the public interest. There must be very few parcels in Boise that resemble the unusual island that’s formed by the roads in this area and possibly could add insult to injury. The amount of right-of-way that was taken by ACHD for these roads was clearly in access of what is needed for the roads. I don’t know if you can…maybe could be lighten that a bit so that you can see where the property line is versus the road? So you can see where the line closest to the building is 10-foot, is 27-ft from the curb. You can see where the property line is 10-ft from the septic line that we’re asking for. So the extensive, unusable to ACHD take, has caused a hardship for this land owner, making it reasonable to grant a 10-ft variance…especially when there’s an additional 17-ft between the property line and the roads that will be used for an extensive streetscape and landscape buffer. What the variance provisions of the zoning ordinance do is provide some relief from hardship. We’ve heard from some, I’ve read from the previous test hearings and the reporters reported in the paper last week that because we’re asking for a setback variance, we’re somehow circumventing the zoning rules. But we’re not…this is not a giveaway of a setback, but precisely the use of the zoning rules, requesting a variance, as we are, under these really unusual circumstances. When a hardship has been created by government action, when the senate characteristics are so unusual, the city and its zoning ordinance does not just say “too bad, so sad.” The zoning ordinance allows for flexibility under harsh conditions. So we’re not avoiding, but we’re using the zoning ordinance. With regard to the height exception, which is governed by the conditional-use criteria, some people at previous hearings have said that they had a concern about height exceptions in general. Wondering about how those happen and, again, our zoning ordinance allows flexibility in the actual height, so long as the conditional use
criteria are met. And a height exception makes sense in this particular situation where the most immediate buildings are over 30-ft taller than the proposed which, as designed, provides the transitional height variation from a WEGI buildings to the surrounding buildings and neighborhoods, also with a further buffer of over 250-ft of right-of-way. At the previous hearings, sometimes at the prompt of the commissioners, people were asked, “what kind of height would you support?” And the answers were anywhere from 121-ft, 96-ft, 75-ft, halfway between 110, and 45-ft (which is basically what we have here). So, I think that you can see that many people have said what was presented before was too high, but we hope to show the commission here tonight that what we’re doing here tonight is very much in the way of transition and we do meet the conditional use criteria as shown by the staff. Finally, I’ve read in the transcript from previous hearings that some people are concerned that when we seek a conditional use here, it’s somehow gonna’ set a precedent for other property…and I know there’s other vacant property much more close to some other areas, like Strawberry Square, and people are concerned about that. And they are concerned that what you do here will guide you and tell you that you have to do the same thing in another property. Any applicant for permission to use adjacent property will have to do just as we’re doing here: demonstrate to the commission that the proposal is compatible with the surrounding neighborhood. It has never been my experience that staff, this commission, or the council will allow one property or introduce something simple because somebody else has done something down the road. With that, I’ll save time for rebuttal, answer any questions if you have at this point and turn the podium over to Mr. Nickel.

Commissioner Wilson – Thank you.

Shawn Nickel (1589 N. Estancia Pl. Eagle, ID. 83616) – Thank you Madam Chairmen and commissioners, I’m Shawn Nickel, and I’m representing Quasar Group. Commission, soon after your initial denial of the first application or first go-around of this, myself and the Quasar Group went back, we looked at the record, looked at the comments from both the planned zoning commission and the neighbors. We talked with staff and we made the determination that rather than appealing the decision to the city council, we thought it was more important to work with the input that we got from all of you and come back with a re-designed application that best met the concerns and the needs of everybody that specified at that first go-around. That’s what you have in front of you this evening. We did meet with members of the East End Neighborhood Association and a member of the Strawberry Square Neighborhood Group early on. We got a positive feel that we were going in the right direction. We then held a neighborhood meeting on-site in which approximately 10-15 additional neighbors from their area attended. Also got a positive vibe that we were going in the right direction, they were impressed that we did bring the height down a quite bit from the original two requests. With that, we met with staff, we went through the proper application process, got that submitted including, as Ms. Butler indicated, the Comp. Plan amendment, some height exception, conditional use permit, and the PUD. That request for the mixed-use, again we believe it does better justify trying to bring up mixed-use development that is compatible and transitional with surrounding properties, moreso than the C-3 zone would. We corresponded back and forth with some of the neighbors via e-mail, the ones that we met at that first meeting. We provided them with some elevations and different
At a final neighborhood meeting a couple weeks ago, we had it at the East End Associations board meeting, unfortunately no one from the adjacent properties did show up...we were a little discouraged by that. But I think that that told us is either they are in favor of what we’re doing or they’ve already made up their minds that we’re not doing what they like and obviously here tonight to discuss that. In between those meetings we did meet with the CCDC and also the Downtown Business Association and they were very excited about the project, as staff as indicted, you do have one letter in your record regarding that. The other sum that I’ve undertook was analysis of the area in question. Looking at the existing uses, circulation both traffic and pedestrian, amenities available, and found that this area does have it’s own unique identity. I, like a lot of people, kind of consider this area right here the end of downtown and transitional. It’s actually quite it’s own unique little community in there. It has uses that are both mixed-use, medium and high density residential, also some service related. For example, in the surrounding area you have some services and restaurants, some video, haircut, flower shops; you obviously have the Washington Group International headquarters that employs 600 employees. You’ve got the Clearwater Apartments immediately adjacent to the property that has 124 rental units, you’ve got some professional offices including CH2M Hill, Clear Channel, you’ve got the Evans building, professional offices with 14,000 sq. ft that includes some school uses and some other offices, the Kimberly One town-house complex, you have the Idaho Fish And Game headquarters, the MK Nature Center, you have the 28-acre Municipal Park to the East, the Arbor and the Homestead Apartment complexes and, of course, the Strawberry Square town-house project. And then, within’ approximately 1,000-ft of the site itself I wanted to point out that you have full crosswalks, both going East and South. You have the Boise Greenbelt within’ 600-ft of the project, Municipal Park is approximately 700-ft from the project, that apartment building is about 100-ft, the center of the Washington Group building itself is about 700-ft from the property and you’ve got The Ram restaurant at about 1,000 ft. All these uses provide both services and the need for additional retail services with employment base that you have there currently; you also have some vacant properties that will develop in some future date. And with the apartments and the town houses, great access to the Greenbelt, the park. Again, it’s quite a unique little area in there; it’s not just the end of downtown separated by this giant arterial that we consider with Parkcenter Blvd. Other than two times during the week that arterial does provide access to and from the Parkcenter area, it’s quite a quiet little neighborhood the rest of the time with crosswalks and I believe you’re gonna’ have a nice (with the hopeful approval of this development) addition to that community. I will stand for any questions.

Commissioner Wilson – Alright. Any questions for staff or applicant at this point? I just wanted to correct one item in your presentation; CH2M Hill no longer occupies that building near the river, we’ve moved to the Idaho Lottery Center about a year ago. Still a couple of engineers who rent that building out.

Shawn Nickel – Oh, that’s right. That building is still occupied, but you are correct.

Commissioner Wilson – Yeah. I’m not there, that’s really the hard part. Any questions for staff or applicant? Alright.
David Waldren (80 W. Cutwood Ct, Eagle) – As we left the last hearing, we heard a directive loud and clear which was to go away and make significant changes, and re-apply. And that’s what we’ve tried to do. I was particularly influenced by a diagram that the adjacent neighbors provided. If you may recall, they took our original design and cut the building in half and placed half of it on one end and half where it was. I was kind of struck by that concept and I was influenced with how we should proceed and I think you’ll see that the design that we’re presenting now is very close and massing to that idea. In addition, what we’ve tried to do is to create undulation, variation in heights and we plan as we carry forward with our design work to create a very rich and very interesting streetscape along the street. As Susan mentioned, we reduced the height about 46%, we are now at 30-ft below the building right behind us. I just wanna’ repeat something that we initially began with and that’s the understanding that the general growth philosophy of the Boise-area is to create mixed-use downtown living, small commercial shops. This is the concept that we zeroed in on initially and I’m hoping that you’ll agree with us that we finally have gotten it to a scale that’s very comfortable to the neighbors. This is a view looking north as if you were coming over the bridge, encountering the property for the first time and I think you’ll see that, and this does not represent a final design but we plan to have a lot of articulation with balconies for every unit, a lot of undulation, modulation. Susan mentioned the terrace, it’s about an 8,000 sq. ft. area as an amenity for the project and it’s placed on the west side of the building and I think offers a relief to the office workers in the Washington Plaza building looking out that direction. This is an adaptation to a photograph we took over at Washington Square and we’re pretty close to the centroid of the project and this is a super-imposed design of our project over an actual photograph, so it’s a very accurate depiction of what’s there. I think with that, I’ll stand for questions. We do have a movie…it’s real quick. Susan, do you know how to push the button? (laughs) That’s it.

Commissioner Wilson – Any questions for staff or the applicant at this point?

Commissioner Brunelle – Madam Chair, a question for Susan. We’re talking about a rezone from C-3 to R-O as part of the request and it appears to me that that actually has no affect on setback requirements…that they’re a 20-foot setback, a front setback.

Susan Riggs – Madam Chair, Commissioner Brunelle, that is correct.

Commissioner Wilson – Further questions? Alright, next we will go to the representative from the East End Neighborhood Association.

Deanna Smith, President of the East End Neighborhood Association (1208 E. Jefferson St. Boise, Idaho. 83712) – In general, our neighborhood association has taken a position in support of this proposal. We feel that the applicant has done an admirable job to respond to the concerns, particularly the concerns of height that was presented at the first round of hearings. Our position on the height, we were the ones who pointed out that we thought some height might be allowable, but it should really be viewed as a transitional piece of property, which the applicants
pointed out tonight. We recognize that some people think of this as a part of downtown. We do not, our actual neighborhood boundaries go to Broadway, but we also recognize that immediately to the west this is a heavily commercial area. Therefore, we like the height that they have come up with. It is acceptable to us. It’s an acceptable transition. It makes that comment that we had requested. It is about halfway between what exists to west and what is allowed currently, which is the 45. Along those lines, however, we want to point out two concerns that we have, not with this project, but just we want to be on the record. We do continue to disagree with the City’s position that height should ever be allowed as an exception, and we have stated in our previous testimony and written testimony that we’ve had, we do believe that that decision is inaccurate with the State statutes that address height variance. We think that height should always be dealt with in a variance environment. We also do really want to strongly put on record that, as stated by Joann Butler earlier, the land immediately to the east is 45. It’s an identical zone to this one currently. We would never want to see that go over 45 and that’s why we talk about this as a transition zone. The ground immediately to the east that is yet undeveloped is much closer to the Strawberry Square, Kimberly One, and the park, and we believe should stay at the 45 height for whatever comes forward in front of you to that ground. That said, we do like the changes in zone and Comp. Plan. Actually, it much better fits our yet finalized and not adopted neighborhood plan, but the neighborhood plan process we went through identified six areas within our neighborhood where we would like to see mixed-use with some commercial in this area. Those pieces of ground, frankly, we have identified as an area, we would like to move in that direction. So, we strongly support the reason on it. It is a unique piece of ground. So with that I would stand for any questions?

Commissioner Wilson – Questions? Alright, thank you. I’m sorry I caught you by surprise. I’m trying to do a better job with having the neighborhood representative follow the applicants.

Deanna Smith – Oh, ok, I’m just used to being on the list.

Commissioner Wilson – Thank you. Alright, so next we will go to the list. The famous list. We will begin with Shawn Nickel. See now you don’t even need to be on the list.

Clayn Sonderegger (1155 N. Black Cat Rd. Meridian, ID 83642) – Madam Chairman, Commissioners, I’m Clayn Sonderegger, I believe that Quasar development has done a great job in combining the new urbanism and mixed-use, and I would encourage a vote of changing the map and also allowing the set back to reduced as a benefit in this transition zone. Thank you.

Commissioner Wilson – Thank you. Terry Christensen?

Terry Christensen – Madam Chairman, Commissioner, I to am in agreement with the other gentleman, that this is a great project. I think it will…
Commissioner Wilson – State your address.

Terry Christensen (1094 E. Covey Run CT. Eagle, ID 83616) - As Commissioner Cooper pointed out earlier, the average household in Boise is shrinking to around two people. I think that this particular project fits that model and helps the traffic count in downtown Boise a little bit, but will also help the economic viability of the community overall. It is a beautiful project. It is a vast improvement over the existing site. I believe it will be a very proud addition to the city of Boise. Thank you.


Rocky Bogert (2105 Warm Springs Ave Boise, ID 83712) – I also am a part of the east end Neighborhood board, and I just wanted to come up and speak to our neighborhood plan and the identification of a neighborhood commercial, servicing both neighborhood and also I believe southeast Boise, and the way I wanted to speak to that was I’ll present a picture.

Commissioner Wilson – For the record we have received an aerial photograph.

Rocky Bogert - The aerial photograph is a store at 17th and Madison in Seattle, Washington. Its dimensions, I believe, would probably fit the footprint of the commercial area, and the reason I brought that forward is that location has a Trader Joe’s located in that building on the first floor, the parking for the Trader Joe’s is on the second floor, which sounds a little bit familiar like this plan, and in discussing with neighbors throughout the east end, any time we have talked about neighborhood-commercial the first words out of most people’s mouth is, “Can we get a Trader Joe’s around here?” So I brought it forward, I gave a copy to the developer, and hopefully he will go to town and get us a Trader Joe’s. Thank you.

Commissioner Wilson – Thank you. Next on the list we have Ray Frechetta?

Ray Frechetta (983 Strawberry Ln. Boise, ID 83712) – Madam Chairman, Commissioners, my name is Ray Frechetta. I am also the President of the Strawberry Square Townhome Association. First off, I would like to commend the developers and the architects for the changes they have made. I think they have made a great stride towards a compatible use in that. As an association, we do not have an issue with the use. We do not have an issue with the proposed change in zoning. In fact, I think the move is right and it probably gives us something to work with when we look at the other property that we are concerned with. We still have an issue with, and it may not be an issue with the building, it’s an issue with the zoning. There isn’t a proper zoning to move the building that he needs on that property on to that. May be we are lacking in the proper zoning to give them the height without an exception, because I don’t think that the arguments put forth necessarily hold water in the future. The takings issue on the setbacks, those takings were done long before this current developer was in position on that. I think that really doesn’t create a hardship. If he had something planned and he came in and took something,
that’s different, but I think that you will find out on State St. that the setbacks from ITD are about 30 ft, and then there’s another setback from that. I think maybe within the zoning of the near downtown area and the downtown you ought to see if we are going to apply new urbanism, we change the zoning that the setbacks on gateways are ignored. We’re concerned with that being applied in other areas. I think we do like the use, the design is getting there. There are a few issues that we would have with access. I think there is the left turn lane without acceleration is asking for trouble along east Parkcenter, and the driveway into the parking garage right after that street behind the property is also a concern, but maybe those should be take up at design review later. I think it is a great move, and it is a big change in the use and that will be greatly appreciated, and I wish them all the luck to get that building done and make a financial success of it. We’re just a little concerned. We would like to see some strong issues brought forward on why this property has exceptions to it. Thank you.

Commissioner Wilson - Thank you. Alright, next we will hear from Thomas Whitworth.

Thomas Whitworth (991 Strawberry Ln. Boise, ID 83712) – Good evening, I have no problem with the re-zoning. I think it is a good idea that we rezone the area. I’m glad they brought the height down. That was our major concern. Looking out now with the wall there, we’re not really going to see the building. I would still like to see it stay within the guidelines of 45 ft, but, you know it is getting closer. My major concern though is the setbacks. There is in the packet it says the setbacks are actually 5-ft for the colonnade, so that’s bringing it even closer in. It’s somewhere in the packet they were bringing the colonnade out to 5-ft. If you look at the picture where our complex is, we have a big wall that blocks us out and there is no green along there at all so, you know, that’s going to bring it into like a little canyon that you run right along in there, so. My major concern is developing the setback by 5-ft. Thanks.

Commissioner Wilson - Thank you. John Knipe?

John Knipe (1000 Strawberry Ln., Boise, ID 83701) – I just wanted to mention again that there are several hundred people that have signed a petition to anything over 45 ft for this sight. I think the number is close to 1,000. That doesn’t seem like a lot compared to, you know, the whole city, but when you consider there’s only a few thousand homes in that area, maybe less than three, that’s a significant amount of people that do oppose anything over 45 ft. Thank you.

Commissioner Wilson – Thank you. That brings me to the end of the sign up sheet. Are there other folks who want to testify this evening that did not sign up? Going, going. Okay. Next we will go to questions from the Commission of staff and the applicant, or if there is anybody else that you have questions of that have provided some testimony.

Commissioner Cooper – Madam Chair, a question for Susan. We have discussed this issue many times before, and I wonder if you would want to take a shot at why changes to the height requirements are exceptions and not variances?
Susan Riggs – Madam Chairman, I’ll turn this over to Scott, he can answer that.

Scott Spjute - Madam Chairman, Commissioner Cooper, we do acknowledge that in the State code in the variance section it does mention height, but our contention is it does not preclude local jurisdictions from creating another way by which to allow for variances or exceptions to height. Normally, when you grant exceptions or variances, they have to do with setbacks, and they’re based on the shape of the property or the size of the property or the way the streets constrain the property or the topography. None of those sorts of things would ever apply to height, and I can’t imagine a scenario where there would be a hardship that would create a need for a greater height. Our zoning ordinance acknowledges that notion, and is restrictive in all of the zones in the height that is allowed. Now the C-3 zone that allows only 45-ft height is our most heavily intense commercial zone. A lot of intensive commercial uses are allowed outright in that zone, and yet you can hardly put a three story commercial building in a 45-ft height, and so the procedure for exceeding the height is not a variance, but this exception that our ordinance contemplates, and it is based on the conditional use criteria primarily, that the increased height not create an adverse impact on surrounding properties and it be compatible with what is there. So, it’s kind of a long stab at trying to answer your question Commissioner Cooper, but that’s basically why the Boise City code allows for increased height through a conditional use rather than a variance procedure.

Commissioner Cooper – Thanks Scott.

Commissioner Wilson - Further questions for staff or the applicant?

Commissioner Brunelle – Madam Chairman, I’ve got a couple of questions that could go to both applicant and to staff. The first one has to do with the variance, and what ties these questions together is there is a story from the applicant, then there is a story from the staff on a couple of these things, and they are not the same story. The applicant claims a hardship, at least in one of their application letters, but it seems to me that really we can grant this more as an exceptional circumstance and, Susan, that’s basically what your staff report concludes, isn’t that correct?

Susan Riggs – Madam Chair, Commissioner Brunelle, that is what my staff report concluded, that it was a unique circumstance in that the perceived distance from the back of the curb is 27 ft on both Park Blvd and Parkcenter Blvd., that it is a new urbanism building that encourages the building being brought out to the street. All these were unique circumstances that made sense to grant the variance. The applicant, I believe, also believes that it is a unique circumstance, but went a step further in believing that there was a hardship in that ACHD had taken some right-of-way that will never be developed. They’re gonna actually, in a license agreement, give that land back to ACHD in a landscape strip, sidewalk, double row of trees, and so forth, but, from my standpoint, it was a unique circumstance. There also, I think the applicant went off on the pathway of fact that the lot is encumbered by streets, by arterial roadways on two sides, a service drive on the west side, and yet another roadway on the north side. I think it’s a service drive.
Commissioner Brunelle – Okay. Second question, Susan, and, again, the applicant can speak to this if they want when they are up for rebuttal. The staff report basically sketches out the story that the need for the land use map change and the rezone is in order to fix a problem that crept up when the in-fill density bonus was repealed, so what we are talking about is creating a work-around for something that the applicant had originally proposed as part of their original proposal that was rejected, the 90-unit condominium. Ms. Butler did point out that there a lot of risks to having a C-3 zone in your neighborhood, but it was driven by the fact that we needed to find some way accommodate that desire for that number for the unit wasn’t it?

Susan Riggs - Madam Commissioner, Commissioner Brunelle. I guess it could appear like that. I think the fact that the Comprehensive Plan really supports the land use map amendment to a mixed-use was really the driving force for this project when we sat down with the applicant and we suggested that they rezone this R-O and we realized that the map called this area out as commercial we were rather surprised. I think the changes that have occurred in the downtown area and on the outside of the downtown core area have driven the need to bring mixed-use closer to downtown. The proximity of this development to the schools, the parks, the commercial services, the downtown, the transit, all made sense. So, it wasn’t necessarily a vehicle just to get this through, but it was the right vehicle in our mind in that this land, as stated by the East End Neighborhood Association, is really targeted for a mixed-use development. Mixed uses would be much more appropriate in the City’s mind for this area than a high intensity C-3 use.

Commissioner Brunelle – I agree with that. It just seems to me that we should have looked at more than just the parcel that was in question. There is a triangular piece to the north, there’s the old Cosmopolitan Bowling Ally piece to the east which abuts the residential homes. I think there is an opportunity being missed here as far as looking at that area where we do have the residential transitioning into that area, and it just would have looked a little nicer if we had kind of done something more hold-and-stick.

Susan Riggs – Madam Commissioner, Commission Brunelle. I agree with that, and I that at some point we probably should look at taking that in on the land use map as a mixed-use, however, that application was not before us to move forward on that piece of property, but I agree with you that would be the right transition in this situation.

Commissioner Wilson - Further questions?

Commissioner Ellsworth – Madam Chairman, yes question for Susan. Susan, do we need a hardship to grant a variance? Or can we do it with special circumstance?

Susan Riggs - Madam Chairman, Commissioner Ellsworth. A unique circumstance/special circumstance is the other qualifying factor for approval of a variance.
Commissioner Cooper – Madam Chairman, I have a related question that one of the neighborhood folks brought up. On the site plan here, which has the setback dimensions on it, there is a note that the setback varies from 10-ft to 5-ft at the colonnade, and as I look at the elevations it seems like the building face above aligns with that colonnade, so to me we are actually looking at a 5-ft setback not a 10-ft setback.

Susan Riggs - Are you speaking about this setback here that is 5?

Commissioner Cooper - On Parkcenter Blvd. To the left of the title on Parkcenter Blvd there’s a note. It says that the set back produces from ten to five, right above your finger there.

Susan Riggs - Madam Chairman, I would like to address this to the applicant if you would like to speak to that please.

Speaker - Actually, I need to clarify that because we in our on going design and decisions we’ve made the decision to eliminate that call and aides so it’s the set back will be the 10 ft from the property line to the building.

Commissioner Cooper – And to the building above?

Shawn Nickel - The building above is in line with the strongest line shown on this site plan, which is 10 ft.

Commissioner Wilson – Further questions for staff or applicant? This is your last opportunity before we go to closing comments. Alright, closing comments by staff.

Susan Riggs – No closing comments, thank you.

Commissioner Wilson - And rebuttal by the applicant than.

Joann Butler – Staff and the applicants stories regarding variances I think that, not so much at odds but just compliment one another, in regards to the unusual circumstances and the hardship created. I appreciate the comment created by Commissioner Brunelle about looking at a wider use of the zone and the density in-fill issue. You know, what we found is, in working with staff and trying to come up with the appropriate zone, that without the in-fill density bonus just being available, it caused people to be a lot more rigorous about looking at the zoning ordinance and the comprehensive plan instead of just pulling a 20% out of the air. So I think that was a good thing for this particular area and hopefully, of course we couldn’t make application for other properties in the area, but perhaps I’ll do that or the city will take it upon themselves to look at that in that area as well. Really, that’s it unless the commission has any other questions?

Commissioner Wilson – That will close the public hearing and deliberate towards the decision and just a reminder, commissioners, I will need three separate motions on these. (end of tape 1,
beginning of tape 2) …met without the in-fill density bonus just being available, it caused people to be a lot more rigorous about looking at the zoning ordinance and the comprehensive plan instead of just pulling that 20% out of the air, so I think that was a good thing for this particular area, and hopefully, of course, we couldn’t make application for other properties in the area, but perhaps they’ll do that or the City will take it upon themselves to look at that in that area as well. Really, that’s it unless the Commission has any other questions.

Commissioner Wilson - That will close the public hearing and we’ll move towards a decision. Just a reminder, Commissioners, I will need three separate motions on these.

Commissioner Cooper – I’ll start out by making a motion to approve CAR06-41.

Unknown Commissioner – Second.

Commissioner Wilson – A motion and a second; discussion.

Commissioner Cooper – Yes, I think this is probably the easiest decision to make about this project tonight, particularly the discussion about other parcels in the area really being more appropriately zoned as a mixed use rather than commercial, and also that particularly for service commercial which really allows inappropriate uses that this is really the right designation on the land use map for this site.

Commissioner Wilson – Further comments?

Commissioner Brunelle – I’ll vote for this, I am pretty reluctant on the standpoint that we’re make a change to the land use map that is dealing with just one applicant, one area, when there are some adjacent properties that I think need to be looked at as well, and the fact that there was some creativity, I think, brought to bear to try to deal with the loss of the density bonus by changing the land use map and then changing the zoning. I think the City Council needs to be careful on how they deal with that. It might be one where they need to look at brining back the density bonus in certain parts of town if they were to prescribe it a little better. That was repealed for good reasons, especially up on the bench, but maybe in some areas in and close to downtown we should have a density bonus to deal with that. I’ll let it stand there. We’re just talking about the land use map.

Commissioner Wilson – Yes, right now we’re just talking about the land use map. Any further comments on that? Alright, with that I’ll call for a vote. All those in favor?

Commissioners – I.

Commission Wilson – Opposed? Motion carries. We’ll next take up the rezone.

Commissioner Cooper – Madam Chair, I’ll move for approval of CAR06-42.
Unknown Commissioner – Second.

Commission Wilson – We have motion and a second; discussion.

Commission Brunelle – Madam Chair, I think that the motivation on this rezone fulfills a number of things specific to this project. It doesn’t change the set back question, and so the variance that we have to deal with, we’ll deal with that here in a coming vote, so it really didn’t change the baseline condition out there. The change in the zone will allow the additional dwelling units for that property, and it’s in a location where the transportation impacts of those additional units, I think, are well within the ability of the transportation system to handle. The applicant did point out that there are a number of allowed uses either through permit or through conditional use in a C3 zone that will no longer be allowed under this RO zone, and those are all good reasons to support this change in the zone.

Commission Wilson – Further comments?

Commissioner Cooper – I have a comment similar to what I mentioned in my motion earlier. I think that the change from service/commercial to RO will be of much greater benefit to the neighborhood and not just a site, but to have the combination of higher density residential and neighborhood commercial.

Commission Wilson – Thank you. Further discussion? Alright, all of those in favor of the motion?

Commissioners – I.

Commission Wilson – Opposed? Motion carries. Finally, on to the conditional use and the variance.

Commissioner Brunelle - Madam Chair, I’ll move approval of CUP06-56 and CVA06-23.

Commissioner Cooper - Second.

Commission Wilson – I have a motion and a second; discussion.

Commissioner Brunelle – Let me make a few comments. One, when I looked at the height on this I approached it from a question of what is compatible and what are we required to look at on a height exemption under the City ordinance. I didn’t look at it from a standpoint of the applicant has been here before, they purposed something, now they are back which shows that they are compromising, because that’s not a basis for us to say that something like this is compatible. I looked at it from the standpoint of what fits, and I think what I’m looking at tonight fits. It transitions from that less than attractive building that sits out there at the east end
of the WGI campus, and it actually fulfills one of the wishes I made in a comment at a previous meeting that you try to hide that to the extent you can, so thank you. But, I think it did need to step down a little bit, and so for that reason I’m comfortable with granting a height exemption for what we were presented. As it pertains to the variance, I hang my hat on what Susan presented that this is an exceptional circumstance because of the right-of-way that was purchased by ACHD. I don’t think we need to reach the question of whether this is a hardship or not, because I think we’ve shown that there is an exceptional circumstance.

Commissioner Wilson – Further discussion?

Commissioner Cooper – I will make a couple of comments. I agree, we deal with and grant tight exceptions often, and we often have this same discussion, and I appreciate Scott’s comments about the fact that we are forcing our own local ordinance, which covers it in this fashion, and I think that the project is now successful in transitioning from the 110 foot WGI building, and I appreciate the comment from the neighbor that said that at least he could no longer see the top of the project from over that wall. Whether you call it a hardship or a special circumstance about the variance, I work in this business also and I’ve been involved with projects where the amount of right-of-way taken by ACHD has caused projects to fail, and so I do believe that that can be considered a hardship. But, the comment about giving the landscape strip back is not really true because it was never yours to start with, it’s always been ACHD’s. About the design of the building, I really think it is much better now that the horizontal proportions. I guess the parking has always been hidden in the back, and I’ve always appreciated that, and I guess finally I would say about the set back, even if it was only 5-ft. I still would be in support. I really believe that buildings are much better brought up to the street, particularly ones that have these kinds of neighborhood-related uses at the ground floor.

Commission Wilson – Thank you. Further discussion? Alright, all those in favor of the motion vote I.

Commissioners – I.

Commission Wilson – Opposed? Motion carries. At this point, I would like to take a five-minute break, and then we will get back together and hear the final few items.

**CAR06-00053 / COSTA PACIFIC COMMUNITIES**
Location: 10230 W. Franklin Road
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 42.28 ACRES FROM INDUSTRIAL USE DESIGNATION TO MIXED-USE DESIGNATION ON THE LAND USE MAP

**CAR06-00054 / COSTA PACIFIC COMMUNITIES**
Location: 10230 W. Franklin Road
REQUESTS APPROVAL FOR A REZONE OF 42.28 ACRES FROM M1-D TO R-3D
Lance Evans presented staff report with a recommendation of approval.

Commission Wilson – Thank you. Any questions for staff? Let’s hear presentation by the applicant.

Rudy Kadlub – CEO of Costa Pacific Communities – 28801 southwest 110th Ave. Pleasantville, Oregon 97070 – I have with me tonight two of my associates; Associate Vice President, Dan Hoyt, in charge of entitlements; and Christina Skellenger, Development Associate, is also with me here tonight, and I have her to thank for our PowerPoint. If you will allow me to just take a moment or two to share with you a little bit about Costa Pacific Communities, what we do, and what we have done. We are not here to just shallow discussion of new urban development, we are actually the co-developers of Orenco Station, which is probably the preeminent of transit-oriented pedestrian-friendly mixed use community in the country. It has been awarded many national and international awards. It is on the west side light rail in Hillsboro, Oregon. The community has 1,834 homes in it on 148 acres of residential mixed use. The community is, right here you will see 198 acres. The light rail is to the south. The community has a diversity of uses. There is 22 different residential product types including single-family detached townhouse, row homes, condominium flats, flats over retail, townhouse over retail, apartment homes, and mixed use residential, retail, and office. We are also developing right now another transit-oriented development in Wilsonville. This is a 2,700 home mixed-unit, mixed-use community which is at the terminus of the future commuter rail line in Wilsonville, just a mile west of I-5. We have worked closely with the City, with Tri-Met, and the region to help secure a full-funding grant agreement for a commuter rail line. It has already won national awards for the best on the board site plan. I have to tell you that when we first started planning Orenco Station in 1995, we did not even know what new urbanism was and now we are one, and we are fully committed to it and believe in it because of what our home owners and users of the community say; that their lives are actually better for living there. Twenty-two percent of the people who live in Orenco Station use light rail on a daily basis, and the community is 16 miles west of downtown Portland. Villebois’ site plan, this, again, shows a number of uses. The different colors represent different land uses on the site. There is 160 acres of very sensitive environmental area that is incorporated into the community, yet we maintain a density of 12 units per net developable acre. You can see that the land uses are interspersed and this community is surrounded by green space and open space. It is actually at the edge of the urban growth boundary, and it follows the concept of the construct where the lower densities are at the edges of the community where they interface with the green space, and they get denser as they move towards the center of the neighborhood, and the three neighborhoods in this community where they overlap is the village center where 1,000 people will live on 40 acres in that location. These are some of the types of homes that our home building division builds. They are condominiums, row homes, single family detached homes (as in Orenco Station), and single family detached homes overlooking a park. You cannot see in this photo, nor can you walking through Orenco Station find garages, they are all tucked behind so that the community is truly a pedestrian-friendly community. These are future row homes that will be in our Villebois community. I might add that we are currently building two transit-
oriented developments on the Folsom light rail line in Sacramento. These are townhomes over condominium flats in Villebois. Now, you already know the regional context for this site at Franklin and Five Mile is in proximity to the freeway. Obviously, it is only five miles from downtown, but the site is really an in-fill site, 42 acres. You can see there is very little vacant land around it. The site has been farmed. It was farmed this last summer, and has been farmed for as long as this area has been settled. The seller of this property feels that now is the right time to see this developed into a mixed-use community. The concept plan, as Lance explained, is a mix of uses. This is a little more conceptual than we would like to see it. Our plans generally have more integration of the uses, so we had to show sort of hard lines here, but actually townhouse, row homes, and single family homes will be more integrated than this site plan actually shows. In the future, we will be back with you for another zone change on the west side that will detail the retail office and residential mixed use on the western most 11 acres. So, as Lance said, there are number of things in which it complies to your long-term goals. It is transit-ready, and we will work with the City and the region to help lobby for a future commuter rail line on the rail line to the north. It will be pedestrian-oriented. It is a good transition from the industrial around it to the residential to the south. Lance mentioned the buffers that exist. There is a mix of housing types for several income levels, and the local retail shops will allow people to walk to a quart of milk as opposed to use a gallon of gas to get a gallon of milk. This is a fly over of Villebois. You can see I-5 here running though the middle of the site just north of the Willamette river, what you’re going to see is the central core of Villebois, which is a 500-acre site. What you see as we fly into this is a 40-acre site, about the same size as the property at Franklin and Five Mile, with a little more density than Franklin and Five Mile have, but you can see the attention to detail there. Again, you won’t see any garages in any of these pictures; they are all tucked behind. The sidewalks are very pedestrian-friendly wide sidewalks. Front porches that look onto the sidewalks and face on another. As you get closer to the village center, the densities increase as they should, as they get nearer the mixed-use. On the left here is a mixed-use building with retail at the ground floor, restaurants, and housing above. These are all organized around a plaza. Again, this is a much large project in context; Villebois will have 7,000 people living there at its completion, so the plaza is very important for the use as a living room for the size, a gathering place. Here it shows a Saturday market that could be taking place as any number or uses that are programmed to make this place socially sustainable, as well as economically and environmentally sustainable. We have received a number of orders already for this project for pre-preservation and for incorporating housing for people with illnesses. We also are developing, with help from the EPA, a million-dollar appropriation from congress, the most resolute rain-water-management program known in the United States at this point. I would be happy to answer any questions at this time, or come back.

Commissioner Ellsworth – I’ve got a question for the applicant. How do you propose to protect the future homeowners from the existing M-1 zone that surrounds part of this 40 acres?

Rudy Kadlub – As you can see, I think on this map here, there is a 200 foot buffer that runs along the north end of the site that is the rail line. The rail line runs right down the middle of that, so there is a 100-foot buffer along that edge. To the south primarily is the Ridenbaugh
canal that runs for most of the length of the project that is a buffer from Franklin road. The only intense part of the plan which we want some visibility will along Franklin and Five Mile, and the residential will be buffered by parking structures and office and retail buildings at the edges of those two streets. So, the retail is here, here is the Ridenbaugh canal which buffers all of the residential to the south, and then the rail line buffers from the north, and the retail will buffer from the west.

Commissioner Ellsworth – Thank you.

Commission Wilson – Anymore questions for staff or applicant? Okay. Thank you. We’ll move to the sign up sheet. The first person on the sign up sheet is Edward Kerpa.

Edward Kerpa (88 Lotterell Dr. Boise, ID. 83709) - Right across the street in Boise. I do have one concern here and that is the noise factor, and I think Chairman Ellsworth touched on that perhaps. It is extremely noisy here, and I am very concerned with the traffic patterns through here and the extra traffic though here, as well as the railway on the other side that perhaps there won’t be that much of a buffer for the people even though there is 100-ft, and that is more of a concern for you, I suppose, than myself. I also had some questions on any height restrictions for the condos or the retail that are being purposed at the corner.

Commission Wilson – Thank you. Lance, could you address his question about any changes in the height that would result from this application?

Lance Evans – The R-3 zone had a limit of 45-ft.

Commission Wilson- Compared to the zoning that it is currently?

Lance Evans – The M-1 I think is 45 as well.

Commission Wilson – Okay. Thank you. Alright, next on the sign up list we have Ronald Van Auker.

Ronald Van Auker Jr. (3084 E. Lanark St. Meridian, ID. 83642) – Good evening Madam Chairman, members of the Commission. We currently have ownership of the property directly north. It is the old Eddie’s Bread Bakery. We have a couple concerns on changing the Comp Plan to a mixed-use, and also changing the zoning from M-1D to R-3D as proposed. Industrial use can produce smells, traffic, and also noise. I think a mixed-used development of this magnitude could possibly make the homeowners reluctant to purchase the units purposed. Also, we have noted in the past that from developing industrial properties that residential and industrial uses normally do not mix very well. We have been adamantly opposed at City Council many times and Commission meetings. The third thing is the railroad proximity. As you note, the railroad is directly north of this property. This would be a perfect industrial use. Over the past couple of years we’ve had a significant increase in demand for rail-served industrial property,
and I think this project would be much better served by industrial use. Normally, we don’t like to come up and oppose projects, we like to promote growth in the cities and the communities that we do business in, and we have a very significant, not opinion, but for lack of better words preserving industrial property within the city of Boise, and I think this would be a great one to preserve. Thank you.

Commission Wilson – Thank you. Next I have Ralph Mellin.

Lance Evans – Madam Chair, I just looked it up, and the height limit on an M-1 is 55-ft.

Commission Wilson – Okay.

Ralph Mellin (reside 4500 N. Tumbleweed Lane, Boise, Idaho 83713).

Commission Wilson – For the record, I have received a series of photographs from Mr. Mellin.

Ralph Mellin – They are in essence all the same, so one for each. I believe this property has been in the family for decades. It is probably, as representative of Costa Pacific indicated it is one of the last major open properties in the west side of town. I would propose that it’s probably the premier large open land that is still left on the west side of Boise that is still within the city of Boise and the city of Boise impact area on the west end. A lot of people are going further west. Of course, you’ve got people now over into the Meridian area’s Crossroads center and so forth. Now the mayor here about two years ago encouraged me to start looking at what to do with this property when he brought into the City, and at that time I did have a planner that came in, and we requested to, before this group in fact, that we have 15 acres be set aside as commercial with the remainder to be M-1, and then we took that also before the City Council, and in essence, the response was “Well, come to us with a plan and we’ll take another look at that.” So anyway, I have been honored here to be approached by Costa Pacific. I was on the road to doing some things myself with this area as a response to the mayor and some of the demands to start development and do some in-fill, but I’ve been lucky to have Mr. Kadlub come in. He has a real good history in this area. Started out at River Run in east Boise and did a premier development there about 10 to 15 years ago, and so he invited me over to see what they did over there in Portland at the Orenco Station, and I was very impressed and started relenting in my thought do this myself. I think I’ve got a very good team member on my group, or maybe now he’s got a team member of me on his group, but anyway, if this thing falls through or if he runs away, I guess I could go look down at Las Vegas or maybe Phoenix and probably maybe find someone equal to him, but it sure appears that he’s got a good project. The alternative of not going this way would be back to the M-1, which would be similar to what we have west on Emerald and Executive west of Five Mile road probably would be a significant amount of outdoor open storage. Perhaps we could help diminish that with a little pressure on me to have someone that covered, but still with the M-1 that is probably what would be there. In fact, I’ve had some strong encouragement, buyers that were looking at smaller parcels, and I was looking at going ahead that way. It looks like my three minutes is up. I guess about the only thing I would add is
that we have a tremendous traffic count in that area. We’ve got about 19,000 cars on each of those roads, making about 38,000 total, which is very similar to the traffic on Eagle road and Fairview, so I guess in summing it up I would support what is being brought before you. Thank you.

Commission Wilson – Kerry and Jeri Troutner.

Jeri Troutner (9830 Stardust Dr. Boise, ID. 83709)- Good evening Madam Chair, Commissioners. We got the notification about the events taking place this evening. I did talk to a couple of the neighbors. Stardust drive runs along the rim just above Franklin, and so we will be looking down onto this property. We currently live, as has been told, in an area where this property is bordered by light industrial, single-story, two-story, and some three-story down on the other side of the tracks. We all know that, those of us that live in that area, know that the geese that we get to see land on that field and the hawks that we see circling that field are going to disappear. If that would have bothered us that much, we would have bought the property quite some time ago. We all know that change is inevitable in that area, after speaking to the developer and the owners of the property a lot of our concerns have been allayed. I would much rather look down on this planned community. I did go to their web site, the Costa Pacific Community web site and took a hard look at what they had done, and then not trusting just that, went to the Hillsboro, Oregon web site, went to their planning and development site, and then looked up what actually has taken place there from their satellite photos and was very pleased to see what I did. I think too often in this area we get people in here that say they are going to do something and it ends up that its not, and to me it doesn’t appear that that’s what is taking place. I do have the noise concern. I think that no matter what goes in there is going to make noise anyway. My other concern is it was my understanding there was going be access to this property off of Franklin. Currently Franklin road, as those of us that know, live in that area, is very well-traveled. It was my understanding that we’ve actually exceeded the recommended traffic amount on Five Mile already by about 1,000 cars. So obviously, if we dump in housing units in there, yeah some people will stay in their community to go get a quart of milk, but quite frankly Albertson’s is a mile away, and a lot of people that may be living in here won’t necessarily be shopping in that community. So, that’s all I had. Thank you.

Commission Wilson – Thank you. Does Kerry want to make comments as well? Okay. Is there anyone else present who would like to provide testimony? That wraps it up for the sign up sheet. Okay, Commissioners questions for staff and the applicant?

Commissioner Brunelle – Madam Chair, I have a question for Lance. Lance, do you have the land use map for the City, and what I’m interested in just getting a overview, not of the parcel itself, but put in the larger context cause I know we’ve had this strip of industrial land that runs along the railroad. Maybe you could walk us through that.

Lance Evans – Okay, so this area obviously the blue is the industrial. The site is right here with the canal to the south, with a smaller parcel there. Down here obviously is low density to
medium density. To the north of the industrial we have, again, more low density and then the commercial corridor along Fairview. The mixed-use node down here is the mall with the adjacent retail here south of Franklin.

Commissioner Brunelle – Then as we move east there is more industrial there I think?

Lance Evans – Yes, it just continues with more industrial, just only a little bit further actually.

Commissioner Brunelle – Well further east, I’m talking about ones who are down towards Orchard mixed-use.

Lance Evans – Oh.

Commissioner Brunelle – I’m just trying to see what the context is where we have the additional industrial land.

Lance Evans – Okay, along Orchard there is mixed use adjacent to Orchard, and then the industrial areas back in behind with the tank farm in that area.

Commissioner Brunelle – Okay. That makes sense.

Commission Wilson – For the record, I have just received some color copies of the Boise Internet map showing the current planning areas.

Commissioner Cooper – Madam Chair. I just, for the record, I wanted to get on that I had handed out to you previously the two letters with concerns and opposition from Arnold Van Auker and Michael Simplot.

Commission Wilson – Oh thank you. I should have made a note of that.

Commission Cooper – I should have too.

Commission Wilson – Thank you.

Commission ________ - Question for Lance in relation to that. I thought I saw in the staff report, now I’m not even sure it was in the staff report, but something about the City recently requiring some number of acreage of industrial land. We’ve had discussions recently about preserving industrial land in the City, and I wonder did I see that and is that true?

Lance Evans – We did, for the staff report, a little bit of analysis of vacant acres of industrial land. In 2003, there was 2,531 acres of vacant industrial. These numbers are approximate, but pretty accurate. One hundred sixty-seven acres have been developed since then. We still have 2,364. In addition, we are annexing with Micron and that area of town a lot industrial land to the
south there, so as the City is expanding we are actually gaining more industrial land possibilities.

Commissioner ________ - Do you know if that 167 acres that has been developed was
developed as industrial land or just developed period?

Lance Evans – I could only say just developed period. Gone from vacant to developed. I didn’t
go into and analyze what happened to each one of those acres.

Commission Wilson – Further questions?

Commissioner Ellsworth – If we approve this proposal, do you see some of the rest of this M-1
land transitioning to other uses, or do you see this being kind of a protected island of M-1 use
within the City.

Lance Evans – I think staff’s position would be that this is detached enough from the remainder
of the industrial with the tracks to the north, the arterioles and the residential to the south that it is
still pretty isolated. Directly across Five Mile to the west is Idaho Power’s storage area, a lot of
power lines and such. It is a very industrial area. Maybe that could be developed in the future I
don’t know, but there still is a fair amount of industrial in other locations spread out, and I can’t
see this being a contagious thing that’s going to spread.

Commission Wilson – Further questions?

Commissioner Brunelle – Lance, Mr. VanAcker raised a concern regarding an adjacent land
owner and they want to keep their options open obviously for different industrial uses, and he
does raise a pretty good point I think of rezone this it becomes high-density, mixed-use
residential, and the next thing you know is a very years down the road VanAcker is in with a
proposal and neighbors are up in arms. I don’t know that the answer is to that, I mean they come
knowing that around them is industrial, so I guess the applicant tonight is coming in with eyes
open on that. Is there an answer to his concerns and how we would address that?

Lance Evans – I really believe that the Union Pacific rail to the north really denounced that, in
addition to the development that has already taken place to the north. I mean there are existing
structures there. Whether we get a more intensive use than what’s existing and transition into
something that’s going to have more of an impact, it’s going to cross over and be an impact to
the south across that 200-ft of right-of-way. As a planner I have a hard time seeing that that
would be a huge impact. It is going to be a concern and something that needs to be looked at,
but it is also quite clear what’s there already. I guess I look at it like it’s not like a residential
development that just ends and there is vacant land next to it where someone might say that’s
going to be a park or a golf course someday. This is clearly industrial land and that’s clearly a
rail corridor. I think that personally that will be a difficult stretch to make.
Commission Wilson – Further questions? I’ve got a question for Lance. I used to live in west Boise and I’ve dealt with that intersection a lot in my car. I’ve spent a lot of time at that intersection in my car, and I just wonder if you could address the traffic issues a little bit and the implications of going residential in this area verses remaining industrial?

Lance Evans – Madam Chair, I believe that there would be, well I guess I’ll say that in the five-year work program ACHD is planning to expand those roads and intersection. It will go from the current seven and three east/west lanes at that intersection, and three going north/south to I believe its nine and seven. That seems high. It’ll be nine east/west with turn lanes and through lanes. That intersection is going to go through a lot of changes to deal with all the traffic, and that is in the program already and going forward to address that.

Commission Wilson – Any other questions?

Commissioner Ellsworth - It seems like I’ve seen a map, maybe it’s a compass map that shows future transportation nodes for planning. Are you familiar with that?

Lance Evans – I’m not per say.

Commission Wilson – We thought last week, didn’t we see that?

Commission Ellsworth – I didn’t see it last week, but I’ve seen it before and they’ve planned out future transportation nodes. This is one of those transportation nodes that are identified on a compass map.

Lance Evans – Madam Chairman, Commissioner Ellsworth would this be part of the blueprint for new growth?

Commission Ellsworth – Yeah.

Lance Evans – I don’t know for sure. I would have to check. Our resident expert has stepped out apparently.

Commission Wilson – Sir, do you have the answer to that?

Ralph Mellin – I do have a map showing ACHD capitol improvements 2007 update. It shows a five lane for Five Mile road, and I expect the right-of-way purchasers to be on my doorstep this next year to change Five Mile from a three lane to a five lane with probably seven lanes on the intersection, and then beyond the five-year plan Franklin road in this area is currently a five lane. That is programmed, believe it or not, to go to seven lanes, and perhaps at the intersection maybe nine.

Commission Wilson – Thank you. For the record, I have received from Mr. Mellin the ACHD
Capitol Improvements Pan 2007 update map.

Lance Evans – Madam Chair, just in conferring with fellow staff members, there is no adopted plan yet that has those nodes in there as such. There is a rail transit corridor analysis that is just getting underway. They will be looking at that rail line and what should happen where.

Commission Wilson – Further questions? Alright, well with that we will move towards closing comments with staff.

Lance Evans – I have nothing further to add.

Commission Wilson – Any rebuttal by the applicant?

Rudy Kadlub (Costa Pacific Communities) – I wanted comment that in the staff report that staff obviously understands the connection between transit land use and air quality, and from previous applications tonight, it appears that the planning commission also understands that and understands what the alternatives are if we don’t make that track connection. I was disarmed by Mr. Mellin suggesting that he would go to Phoenix or Las Vegas to find a developer that would do this. I don’t believe those are cities that are exemplary of mixed-use in higher density or pedestrian-friendly cities, that is clearly not what we are about. As far as housing being near jobs and industrial, that’s the point. The point is if we’re going to reduce vehicle miles traveled, you put jobs and housing together. If people can walk to their jobs, if they can ride a bicycle to their jobs, if they can take alternative modes of transportation or transit to their jobs, you reduce the amount of vehicle miles traveled. That’s the land-use transportation and air quality connection that this city and this region have missed until just recently. So we think that we are part of the solution, not part of the problem here. Thank you.

Commissioner Wilson – Thank you. That concludes the public hearing portion and now the commission may deliberate towards a decision.

Commissioner Brunelle – Madam Chair?

Commissioner Wilson – Mr. Brunelle?

Commissioner Brunelle – I’d like to move we approve CAR06-53 and CAR06-54.

Commissioner Wilson – Actually, I’ll need those in separate motions. So, let’s do the one...

Commissioner Brunelle – Okay, let’s do 53. That’s the uh...

Commissioner Wilson – Comp Plan?

Commissioner Brunelle – A planned land-use map designation.
Commissioner – Second.

Commissioner Wilson – We have a motion and a second. Discussion.

Commissioner Brunelle – Even though most people have left, this is probably the most significant thing we’re gonna’ do tonight because we’re going to do an approving this if we do, is take a hard turn in some of our land-use designation and existing zoning in the direction of where things are supposed to be headed under this blueprint for good growth that we’ve all ready about in the paper. And I’ve sat in on a few of those meetings, steering committee, and there were discussions about the need for reigning high-density residential near transportation corridors whether that would be Chinden boulevard or, in this case, the railline in Franklin. And, uh…it was all kind of in the concept level and some people say “well, yeah…it’s a nice idea but we’ll never see it happen.” And boom…here we have the first one and coming from an applicant who appears to have a pretty progressive track-record and is working obviously in the Portland area where they have been on the cutting edge of a lot of this land-use and transportation planning. Umm…this is clearly what, when I was pitching that question to Cody earlier in tonight out in the previous land-use change, this is what I had in mind. Where you see the change in the land-use designation that has some specific public welfare and public interest in mind because we are looking at putting people close to (what should be in the future) our fixed rail-transit area.

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Mr. Cooper.

Commissioner Cooper – I’m gonna’ support the motion. I’m very familiar with Orenco Station, I’ve visited many times as it’s been built up and I am surprised and pleased to see this developer getting interested in our town. Umm…and one of the things that I’ve looked at very carefully is the seamless integration with rail-based transit. And I’m hanging behind this project, but I just want to comment that I think that Boise, Idaho is probably a bit further out on having rail-based transit to attach to there. But if we get more projects like this, it’s just gonna’ happen that much faster. If I make one suggestion, and I know this plan’s not developed at all, but I’d like to see a more direct correction for people that don’t live in this development but can cross it easily to get to that transit.

Commissioner Wilson – Any further comments on the comp-plan map amendment? Alright, all of those in favor of the motion vote “I.”

Commissioners – “I.”

Commissioner Wilson – Motion carries. Next, I’ll take up a motion for the rezone.
Commissioner Brunelle – Hey, uh…Madam Chairmen, I'll move approval of CAR06-54.

Commissioner – Second.

Commissioner Wilson – Discussion?

Commissioner Brunelle – Okay, what we’re gonna’ do here is vote on a change from M-1 light-industrial to R-3D/DA.

Commissioner Wilson – Including the development agreement, correct?

Commissioner Brunelle – Including the high-density residential with design-review and a development agreement.

Commissioner Wilson – Correct.

Commissioner Brunelle – This is a large area; it’s 42 acres. R-3D allows up to some 40-units per-acre, so conceptually you can see somewhere in the range of 1,500-1,800 units. I don’t know what the plans are on this specifically, but we are talking about something that I think we probably didn’t get a lot of information from the Highway District on potential transportation impacts of this change in the zoning. But I support the change in the zoning because of what the concept is behind the proposal. And it is going to put (I think on the city and on the valley) it’s going to raise the bar on us to try and achieve what Commissioner Cooper was just talking about as far the improvement in our transit. Both on rail, and whether it's on the roadways. But again, I know that the newspaper talked a lot about Quasar, but I kind of think this is the biggest deal we’re doing tonight.

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Mr. Ellsworth?

Commissioner Ellsworth – Yeah, I concur with both Commissioners and their comments…in that, umm…I guess I’ve looked at this area and seen it come before Boise City with different applications. People trying to sort of chew away at the M1 property and go to C or C2 or C3. We’ve been reluctant to do that and the reason is because I think, as a commission, we felt it’s important to have M-1 grounds in the heart of a city because it does allow people to live close to where they work. It’s very important to the fabric of the city, and here we are taking a fairly large parcel out of M-1. So I’m a little bit torn but I think, as Andy mentioned, it just is one of those bigger-picture parcels and things that we’re doing tonight that is really going to create a benefit for the city in terms of creating high-density, umm…a lot high-density housing close and potentially on a rail corridor. Maybe the applicant knows something we don’t know, but if this word gets out and other people come forward with these types of proposals then, as you said, maybe we’ll see the rail come faster than people think. So, it’s a great idea.
Commissioner Wilson – Thank you. Further discussion?

Commissioner Orman – I’m willing to vote in favor of the project. I think that high-density is a good thing, especially if we did get the rail service there. Having said that, I’m a little concerned ‘cause this is industrial, it is in a rail-line, and it’s surrounded by industrial and logically it would become industrial at some point in the future. Umm…but I do see the need for high-density in this area.

Commissioner Wilson – Thank you. Umm…I’m also a little bit torn on this application. Some more to Commissioner Ellsworth because I’ve been one of the commissioners who sat up here and said, “no, we need to protect our industrial. We need to be able to build things within’ the city limits.” And, umm…I’m also a little bit concerned with this corner because there is so much industrial here already. And, uh…but I have also sat through some of those “Blueprint For Good Growth” meetings and know that we need to get the rooftops as close to the transit areas as we can in order to bring the transit along. So, even though I’ve had mixed-feelings about it and I’m sure I’m not going to be needing to vote in this, I would support it because I think that this particular island is buffered enough by the canal, and the rail-line, and then Five Mile road that it makes it okay. Without those kinds of boundaries, I would not be supportive of changing this to a residential-use from an industrial-use. And I think that the fact that it has those boundaries makes it a special enough circumstance that it’s not gonna’ cause a cascade affect of turning over the industrial that’s around it. I think that it’s isolated enough that we can make a special circumstance that this be a high-density residential and that we bring this new product that we really haven’t seen in Boise before to this area. We don’t have very many parcels in town that are this large that we could do a special project like this with, and so I’m pretty excited to see what the results are going to be and I don’t think this sets a precedent for changing over the industrial around it. Was there any other discussion? Alright, all those in favor vote “I.”

Commissioners – “I.”
Commissioner Wilson – Opposed? Motion carries.

CAR06-00060 / BOISE CITY
Location: 6551 W. Desert Avenue
REQUESTS APPROVAL FOR ANNEXATION OF 782 ACRES WITH ZONING DESIGNATIONS OF R-1A AND M-1D AND APPROVAL FOR A REZONE OF 20 ACRES A-1 TO M-1D.

CAR06-00061 / BOISE CITY
Location: 6551 W. Desert Avenue
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 668 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO INDUSTRIAL LAND USE MAP.
Angie Brosious presented the staff report with recommendation for approval.

Commissioner Wilson- Alright, we essentially have two remaining items ahead of us. One is items 10 and 11 for the Pleasant Valley south and the others are 12 and 13 that are being brought forth by Boise City. We’re going to need to take up the 12 and 13 first ‘cause they sort-of set the stage for 10 and 11. So we’re gonna’ skip ahead to item number 12 which is CAR06-60 from Boise City. Location is 6551 W. Vista Avenue. This is a request for approval of annexation of 782 acres with a zoning designation of single-family residential and limited industrial with design review overlay and approval for rezone of 20 acres from open land. Again, to limited industrial with designer design review. Along with that, we’ll be hearing about CAR06-61 which is a request for approval of a comp-plan map amendment to change 668 acres from airport conservation area-designation to industrial land-use map. So, with that, we’ll go to staff’s report.

Angie Brosious – Good evening, Madam Chair and Commissioners. Before I start, I would just like to point out that I did receive comments today from Mr. and Mrs. Michael Henry that were presented to you at the work session. I’d like to get that on the record.

Commissioner Wilson – Thank you. Any questions for staff at this point? Alright, since the City of Boise is also the applicant I guess we have already taken care of that. We do have a couple of folks on the signup sheet. First, Kate Lankford.

Kate Lankford (954 W. Jefferson. Boise, ID. 83720)– Good evening, Madam Chairmen and members of the commission. I represent the Idaho Department Of Lands. Just a couple of things to reiterate what staff has already said…we do have land board approval for these requests this evening and support of them as well as department approval and would like to also extend a thank you to Boise City staff for their help and assistance in these requests. Thank you.

Commissioner Wilson – Thank you. Brian Reynolds.

Bryan Reynolds (5042 Umatilla Ave. Boise, ID. 83709) – Madam Chairmen and Commissioners, thank you. I appreciate staff and the work that they’ve done on this and I don’t disagree with most of it but I’m hoping we can tweak just a little bit of it to make it more palatable for the folks at Indian Lakes. Specifically, the L-shaped portion there…kitty-corner to Desert Ave. and Umatilla and I don’t know if staff could point that out, please.

Commissioner Wilson – There’s Umatilla and Desert…

Bryan Reynolds – Yeah, the L-Shape that’s kitty-corner there. Yes. That one is slated for designation for light-industrial and I don’t think light-industrial is compatible with the surrounding land-uses. Particularly, you’ll have residential designation on that 80-86-acre piece and you’ve got residential there at Desert and Umatilla. And I would like to ask for an amendment to amend that to A1 and leave that as open space. That’ll provide a buffer between the other light-industrial lands. I also don’t think it will unduly impact the state, penalize the
state in any way for all the other state land there will continue to have other zoning uses. And that L-shape land living there in that neighborhood, that gets a lot of use as open land right now by the general public. They come and drive there to the end of desert and there’s a lot of walkers there, there’s bicyclists, there’s people strolling their children there, there’s trails and roads in there and I would hope that you would consider leaving that as open land as a buffer. Also, from what I’ve seen of the plans, that L-shape piece will not touch the Overland…excuse me, the Orchard extension or the Lake Hazel extension so it kind of sits there off by itself. Thank you. Any questions on that? Thank you.

Commissioner Wilson – Thank you. That’s it for the signup sheet. Is there anyone who didn’t sign up who wants to testify? Okay, please state your name and address and then also sign in on the sheet up there and then you can give that to me at the end. There’s a little pad; oh…did somebody make off with the pad?

Jackie Bond (6964 W. Amity. Boise, ID. 83709) – I’m not prepared tonight in a sense that, last week, I read an article in the newspaper (which maybe you did) that said that 1,800 homes could sprout. I was shocked by this article and though “wait a second, there’s no city here. How can we build all these houses and why is the city involved when I live in the county and all this area is the county?” So I went down and talked with this lady over here who was very kind and gave me lots of pictures and lots of maps, and I went home and studied them. I do believe you told me you would be putting markers out after I talked with you, and I drove today up and down looking for markers so that I could compare it to my maps. I wish you guys would have had a picture of this, which I pulled off the Internet today. What this shows, and I could give it to you if you wanted, basically my concern is that this is Indian Lakes Golf Course. This area around here is residential and will probably be annexed, as I, as one point which…it’s a residential area. This is airport influence and, of course, none of this area over here because of the airport influence, the actual runway which is right here by Pleasant Valley, over here…but all of this area right here is an area which I know very, very well in my heart. I think it was Commissioner Brunelle who said, “development outside of the city contributes to urban sprawl.” And if the city annexes this state land then what it does is opens up the floodgates for this entire picture…which is nothing but _____, farm land and beautiful open space (maybe not to some people). It’s an area I know well ‘cause I’ve probably ridden every inch of it on my horse. My concern is that this piece of state land, which is not even really the city yet, would then allow these developers…which I just learned today have also bought the very end here, and it’s like suddenly this only area which they’re calling “reserved” because it’s the best for last. I think of it as not a “reserve” but it’s a refuge that is there. I was shocked that this was all happening, but I wonder what kind of impact has been done in terms of birds of prey. There’s tons of people out there, tons of animals and stuff as I arrive out there…rabbits, everything, all kinds of animals. So, I guess I just wanna’ say I don’t know how this happened so fast and how, all of a sudden, we can open up the floodgates for urban sprawl but it’s like…the city started to move out and then it just kind of went “oh, we’ll just side-skip all of this area here in-between that and we will then just grow outside there.” So I just wanna’ appeal to your…man! Can we look at this before we make a decision? Look how many people are here. People in my community don’t know about
it. They knew about the airport annexation and I have a list of probably 85 people who came to that meeting. We don’t know about this and there are no signs out there and there’s nothing that tells me except…I got to read the article. So I wanna’ appeal to delay this decision so we can have more time to look at what are we really doing? Are we trying to extend the city all the way out to the prison? Thank you for your time, I wish I was more prepared.

Commissioner Wilson – Thanks, and now that we’ve got the pad up there…

Jackie Bond – And I do have lots of maps. All of those maps that the boys see in the influence and it all says it were residential, rural urban preserve. That’s what it was called on all the maps that the county had. So remember, that’s what everybody out there thinks it is…is rural reserve.

Commissioner Wilson – Okay, is there anyone else who did not sign up that would like to provide testimony this evening?

Commissioner Wilson – Alright. Any questions for staff, applicant, or anybody who has provided testimony this evening?

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Mr. Cooper?

Commissioner Cooper – I had a question for Angie. Based on those comments we just heard, I just wanted to have you confirm that this was properly noticed and all the neighbors were notified.

Angie Brosious – Madam Chair, Commissioner Cooper. Yes, we don’t actually mark or flag the site but the site was posted at the corner of ____ there, so it was a visible site to the people in that area cause I knew that was gonna be a primary concern. And the City did hold a neighborhood meeting and we invited all of the owners and residents within’ 100-ft as required by the ordinance and I do have the list. We sent out over 90 invitations to that neighborhood meeting, so the requirements were met. Thank you.

Commissioner Cooper – Thanks.

Commissioner Wilson – No, your time’s up. Sorry.

Commissioner Brunelle - Madam Chair, I have a question for Angie, and perhaps our guest from the State Department Of Lands can provide some comments as well. The comments from Mr. Reynolds regarding that parcel, he calls it an L-shape but it’s actually not an L…it’s an upside down L (laughs). I think he raises a pretty good point and it’s kind of funny that it comes after we just dealt with re-zoning an area to residential and impacted maybe future industrial development and I’m wondering what kind of discussions did you have with the land board and
with the Department Of Lands in the negotiations that led up to their approval back in June at their land board meeting about potential uses and conflicts of use. I also had a question, and this helps answer it, is what the current uses out there (and I assume it’s probably under some lease for grazing or some other use) and maybe our guest could comment on the requirements of the state constitution as it applies to endowment lands.

Angie Brosious – Madam Chair, Commissioner Brunelle. The city had numerous meetings with representatives from IDL to discuss what would be the most appropriate zoning for this area. I might note, this is the picture we did take when we posted the site. We do have a requirement to take a picture to show the site was posted, let’s put that right up there. And one of the big factors that played into what we could designate this area is the fact that it is in airport influence areas. And the site here is outlined in red, we’ve got some portions that are in airport influence area C, some that are in B and some that are in A. The only portion that could be given a residential land-use designation was this parcel here, which is right across from the golf course. That’s because it’s in airport influence area A which does allow for some residential development. Residential development is not allowed at all based on airport policies and comp-plan policies and FAA guidelines for airport influence area B. That includes this L-shape portion here, which is why it was given the limited-industrial. When we looked at limited-industrial, one of the reasons that we went with that designation is because in that particular zone you can ask for offices with a conditional-use permit. We realize that wouldn’t be a need for some transitioning, may not need to just be all industrial. We went with the limited-industrial because it doesn’t allow for heavy industrial uses or heavy manufacturing that could cause compatibility issues with the surrounding area and we did get the full support of the airport and we went to the land board hearing and presented the proposed zoning to them. You can also ask for supporting commercial uses within an industrial parts too, which is something that we talked to the land board about is the potential in the future.

Commissioner Brunelle – Okay.

Kate Lankford – Madam Chair and commissioner, thank you for asking for additional response. From the Department of Land and standpoint and the land board, the description that has been described by staff is exactly the discussion that has happened. The charge that the land board has, of course, in the Department Of Lands for endowment properties is to get the consistent revenue stream and long-term revenue stream for the benefit of all of the beneficiary institutions that we have here within the state. Mainly being public schools, some of the hospital and some of the other public institutions that are listed for the constitution. One of the items that have been addressed by the resident of the local residential development is that yes; we do need transitional uses. Contrary to popular belief, this is not a preserve, it’s not an open space, and it’s not a park. It is currently being utilized by a variety of different ground leases. Namely, grazing and for the most part there is some agricultural crop-tilling actually being done. In the long-term we will go through a planning process. Obviously, we have highest and best use…but it has to be compatible use. I am the first land-use planner that the department has actually hired. That’s my charge, I’m not only with the city of Boise but also with all of the other jurisdictions within the
state. So, I’m glad to have the comments when we go through the land-use planning process for this site, as well as our other endowment lands within the state that have some transition potential over time. The appropriate uses with regard to airport proximity, FAA requirements, etc. that have been outlined by Boise staff are uppermost in our minds...as well as getting an income potential. One of the most attractive things about the mixture of uses described by staff is that we can get a mixed-use project. Mixed use does not have to be commercial, industrial, and residential all together. It can be a mixture of non-residential type uses or very compatible uses. There can be some very nice buffering done with office, or commercial or a mixture of those next to your residential area that act as a transition. I’ve been in planning for about 25 years in a variety of different western states and I’m confident we will come to an agreeable type of resolution when this property is ready for development. There are no development proposals, there are no exchanges for this property right now that is owned by the state land or any imminent development plans. At some point in the future, I’m sure there will be. If you have any questions, I’d be happy to answer those.

Commissioner Wilson – I have an additional question, Ms. Lankford and commissioner, thank you for asking for additional response. From the Department of Land standpoint and the land board, the description that has been described by staff is exactly the discussion that has happened. The charge that the land board has, of course, in the Department Of Lands for endowment properties is to get the consistent revenue stream and long-term revenue stream for the benefit of all of the beneficiary institutions that we have here within the state. Mainly being public schools, some of the hospital and some of the other public institutions that are listed for the constitution. One of the items that have been addressed by the resident of the local residential development is that yes; we do need transitional uses. Contrary to popular belief, this is not a preserve, it’s not an open space, and it’s not a park. It is currently being utilized by a variety of different ground leases. Namely, grazing and for the most part there is some agricultural crop-tilling actually being done. In the long-term we will go through a planning process. Obviously, we have highest and best use...but it has to be compatible use. I am the first land-use planner that the department has actually hired. That’s my charge, I’m not only with the city of Boise but also with all of the other jurisdictions within the state. So, I’m glad to have the comments when we go through the land-use planning process for this site, as well as our other endowment lands within the state that have some transition potential over time. The appropriate uses with regard to airport proximity, FAA requirements, etc. that have been outlined by Boise staff are uppermost in our minds...as well as getting an income potential. One of the most attractive things about the mixture of uses described by staff is that we can get a mixed-use project. Mixed use does not have to be commercial, industrial, and residential all together. It can be a mixture of non-residential type uses or very compatible uses. There can be some very nice buffering done with office, or commercial or a mixture of those next to your residential area that act as a transition. I’ve been in planning for about 25 years in a variety of different western states and I’m confident we will come to an agreeable type of resolution when this property is ready for development. There are no development proposals, there are no exchanges for this property right now that is owned by the state land or any imminent development plans. At some point in the future, I’m sure there will be. If you have any questions, I’d be happy to answer...
Commissioner Wilson – I have an additional question, Ms. Lankford. Would you say that the Department Of Lands policy, attitude, or approach towards managing this property has changed from being in the county to being annexed by the city? Or do you think that you would’ve used the same approach developing the property in the county as you were within’ the city?

Kate Lankford – Madam Chairmen, very interesting question. The requirements from an FAA standpoint in the airport influence are there regardless of what jurisdictional label is on the properties. So those have very real constraints whether they be sound designation requirements or just simple compatibility issues, especially talking about height, which we’ve talked about a great deal this evening. So I don’t think that that attitude has changed. What is changing with the Department Of Lands is a different charge, if you will, towards overall asset management for the entire state. That’s timberlands, grazing lands, mineral issues which we have, so there are some exclamation things. As well as conservation in the appropriate area and then commercial or potential sale for residential development. And there’s more of an asset management plan being developed which is a very popular, if you will, concept or present-day concept endowment lands across western United States and so there is a movement to change the way endowment lands are managed long-term for the revenue stream.

Commissioner Wilson – Further questions? For staff, applicant or anyone else? Alright, we’ll go to closing comments.

Staff – Staff does not have any additional comments. Thank you, Madam Chair.

Commissioner Wilson – Thank you. With that, we’ll close the public hearing with one note: Ms. Bond gave us a copy of the aerial photo which I’ll pass around to the other members of the commission and we can take a look at it while we’re deliberating. So with that, we’ll close the public hearing and deliberate towards a decision. (Break) That’s what we’ve been doing all evening, is the comp-plan amendment for the rezone. Okay, we’ll do that again, so we’ll actually take up 13 first.

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Well, actually…do we annex first and then comp-plan map amendment? Which would you prefer, Andy?

Commissioner Brunelle – Technically the comp-plan amendment is like a zone on it, so I’d prefer that you annex first.

Commissioner Wilson – Okay. Then number 12 first. (Laughs) I’m sorry.

Commissioner Ellsworth – Madam Chairmen?
Commissioner Wilson – Yes, Chairmen Ellsworth?

Commissioner Ellsworth – I make a motion that we approve CAR06-60.

Commissioner Cooper – Second.

Commissioner Wilson – Okay, I have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Commissioner Ellsworth?

Commissioner Ellsworth – Well, I think that annexation and the land-use map change is an unfortunate result of our tremendous growth in the city and I do think that the city needs to get out in front of our growth and plan for future growth and this is one of those areas that is contiguous to the city. And I think that the land board, sounds like the land board and the city have been in discussions about this piece of land for several years now and I’m confident that this will be a good improvement for the city’s future industrial and light-industrial growth. I think it makes a lot of sense from a land-use planning.

Commissioner Wilson – Further comments?

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Commissioner Cooper?

Commissioner Cooper – Yeah, I’ll support the motion. A couple of things…I appreciate Angie’s additional comments about why the different categories of airport influence area require that that one parcel, I call it Caddy Corner, from Umatilla and Desert, had to be industrial because it was ____ is not permitted in that airport influence zone. Also, there’s been a lot of news lately about planned communities out in the county. And really, this area south of the city has potential for quite a bit of new development with many new residences and since it is adjacent to the city this is an area where we can control that growth much better and serve it.

Commissioner Wilson – Further discussion?

Commissioner Brunelle – Madam Chair?

Commissioner Wilson – Chair Brunelle?

Commissioner Brunelle – I’m going to support the motion. I think it’s logical that this land come in within’ the city limits. Annexation carries with it our ability to have obviously, a direct
affect on approval of development. It also brings the other city services and it brings a third thing. We already have, what I consider with the city I guess as an appointed member of this body, we have a pretty good relationship with the Idaho Department Of Lands and we’ve been working with them the last few years on some land exchanges in the foothills. We saw there was a need on the part of our residents to preserve some open space and the department came forward with a willingness to work on a land exchange proposal and it involved some exchanges involving BLM land and some forest service land in northern Idaho. So we’ve got this track record and I’m sitting here listening to Mr. Reynolds and Ms. Bond guarding this land out there. Obviously they are residents out there, they like the open space as it is. This is endowment land and endowment lands carries with it constitutional requirements that it generate long-term returns to the beneficiaries, which is mainly our public school system. But it also opens up possibilities of future land exchanges. I’d be interested in seeing a map of our city areas and what future park development we have for the city of Boise in that area that at some point in time, maybe some of the parcels out there would make sense for a future city park. I don’t know if the desire is out there to develop park land or if they’d like to leave it more in an open area, but with the Department Of Lands you’ve got a group you can work with and the nice thing about it is that they’re run by the landlord and those are 5 people who live in the city too, so they care about the city. I know many of them and I think that they would be approachable if people had ideas about uses out there in the future that would be of interest to the people that already live in that area, knowing that there would be some development within’ the airport influence area and on this land that would be annexed.

Commissioner Wilson – Thank you. Further discussion?

Commissioner Orman – Madam Chairmen?

Commissioner Wilson – Mr. Orman?

Commissioner Orman – I would just like to say that I liked Mr. Reynolds statements about maintaining some open space out there as buffer between the residential and industrial as we know those two don’t really need to go together. Additionally, if there was a need for a park then maintaining that space would provide a good area for the park. In support of the motion, I think that we need to take a look at the possibility of maintaining some open space.

Commissioner Wilson – Thank you. Any other comments? With that, I will take a vote. All those in favor of the motion say “I.”

Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. Next we will take up the comp-plan amendment.

Commissioner Ellsworth – Madam Chairman?
Commissioner Wilson – Mr. Ellsworth?

Commissioner Ellsworth – Make a motion to approve CAR06-61.

Commissioner Cooper – Second.

Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairman?

Commissioner Wilson – Commissioner Ellsworth?

Commissioner Ellsworth – Well, for a lot of the same reasons that we’ve just stated in terms of planning for the future…I think it makes sense to do both the annexation and the comprehensive plan map change, or amendment. Through this area, they kind of go hand-in-hand the way I see it.

Commissioner Wilson – Further comments? All those in favor?

Commissioners - “I.”

Commissioner Wilson – Opposed?

**CAR06-00057 / Pleasant Valley South, LLC**
Location: 6298 S. Cole Road
REQUESTS APPROVAL FOR ANNEXATION OF 601.30 ACRES WITH A ZONING DESIGNATION OF A A-2

**CAR06-00058 / PLEASANT VALLEY SOUTH, LLC**
Location: 6298 S. Cole Road
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 601.30 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO PLANNED COMMUNITY DESIGNATION ON THE LAND USE MAP

Angie Brosious presented the staff report with recommendation for approval.

Commissioner Cooper – Madam Chair, I’ll need to excuse myself from these items, my firm is working on the development.

Commissioner Wilson – Thank you, noted. Enjoy the rest of your evening. Alright, with that we’ll go ahead and hear a staff report.
Commissioner Wilson – Thank you. Are there any questions for staff or the applicant?

Commissioner Ellsworth – Madam Chairmen, I’ve got a question for staff. The difference between 4 dwelling units per acre and 6 dwelling units per acre, is that driven just by the airport in months?

Angie Brosious – Madam Chair, Commissioner Ellsworth. Yes…. From a planning perspective, of course, we would encourage the 6 dwelling units per acre or even a higher density in something like this to support transit and to get the higher diversity in product types. And staff does acknowledge that with the gross density of 4 dwelling units per acre we will not receive, or not achieve as much diversity as we could with a 6. We would probably see some of the areas like, some of the policies talk about a range next to Lake Hazel, around the park, and you’ll probably see the lower end of those density ranges with the 4 units. But staff does feel that we will be able to get diversity of product types because the airport was willing to give us a gross for this entire area which can include the roads, the park, the school site, the neighborhood commercial. So there will be potential to achieve some diversity, but not as much, obviously. I mean, the higher in density you go, the more diversity you can get.

Commissioner Wilson – Other questions? Mr. Brunelle.

Commissioner Brunelle – Angie, or the applicant can answer this. I’m a little confused why there’s an issue south of Lake Hazel? Is it that there’s no disagreement with a limit on north of Lake Hazel or because we’re gonna’ be a business office park type of development north of Lake Hazel that this number of dwelling units is not…

Angie Brosious – Madam Chair, that is correct. For the area north of Lake Hazel, the airport asks that it be at 3 dwelling units per acre, they originally had it 3½ dwelling units per acre and the applicant agreed that that had the…unit per acre wasn’t critical to their development and they agreed to willingly accept the 3 dwelling units per acre maximum north of Lake Hazel and the airport is supportive of the rest that’s north of Lake Hazel as a business park. We are supportive of it as a business park, we’re not requiring the industrial land use designation that was originally proposed.

Commissioner Wilson – Do you have anything to add?

Larry Sale – One point, Madam Chair, on that line, a point I forgot to make unfortunately. The airport master plan does not include any designation of density in airport influence zone A. It says residential development may be allowed and the other requirement in the master plan is that the construction have sufficient insulation to reduce the outside noise level by decibels to the inside of the building. In our climate, that equates to standard household construction, particularly as far away from the noise as these buildings will be. But the master plan doesn’t have a number in it, doesn’t speak the density. Thank you.
Commissioner Wilson – Further questions? Alright, next we’ll go to the signup sheet. Thank you, Mr. Sale. Barbara Davis?

Barbara Davis (7221 W. Ring Perch Dr. Boise, Idaho. 83709) – They’re building in my backyard. At first, they told me that they weren’t going to build any schools and announced that they didn’t have to. Now, I see in their paperwork that they are planning to, at least hope to. They aren’t going to do anything about widening Cole Road and really the traffic off of Cole Road. Although, the Highway Department told us at that meeting that it…. Lake Hazel and Orchard weren’t even on the list, so it was out a good 5 years before this would be done. They also told me that the homes right in behind me would be comparable to mine. Well, the south Fork subdivision, the homes in there run $350,000 to $700,000. So at 3 dwelling units per acre, they just might make it…. Any less than that, they just might not. And when you say that this is the only open land that got left in Boise, after you’ve put several big subdivisions already through, we’re gonna’ have another California if you don’t stop and look at Boise and what a beautiful city you have. Thank you.

Commissioner Wilson – Thank you. That’s it for the signup sheet, is there anyone else who wanted to testify that did not have the opportunity to sign up? Please come forward. I’ll just have you state your name and address, and then have you fill out one of those magic forms and turn it in when you’re done.

Jerry Heinbach (6302 S. Cole Rd. Boise, Idaho. 83709) – I live on a one-acre parcel that’s within’ this area and I wasn’t planning to speak, but I am a retired professional civil engineer for Idaho and I was in Highway planning and urban development, urban transportation planning my whole life. And so, I would just want to speak to support the higher densities because, as we all know, it’s the lower densities that really does cause urban sprawl. And we haven’t sold anything, but we’ve been talking to the developers and working with them…my 90-year old father-in-law bought that 40 acres years ago in 1941 because he said, when he moved here from Denver, “this is so close to the center of town it’s going to develop something.” And he’s still alive, so he may see something. But I would just speak to support the higher development. We live there now, I realize the third runway will become a little closer, but the C-130s take off there all the time and we hear nothing. I mean, there’s no influence from the airport over our property and we’re not even in a flight plan because airplanes don’t land sideways on runways, they go off the ends, and this is all south. So I don’t see any reason for the airport to request lower density, especially on the area south of the extended Lake Hazel.

Commissioner Wilson - Alright, thank you. Anyone else who would like to testify this evening who did not have the opportunity to sign up? Alright. Commissioners, any other questions for the staff or applicant or anybody who’s brought forth testimony?

Commissioner Ellsworth – I have a question for staff. How much flexibility do we have when it comes to land like this in terms of density, when we have this airport zone A?
Angie Brosious – Madam Chair, Mr. Ellsworth. For the Comprehensive Plan policies for the airport influence A, the applicant was correct in stating that it does not have a specific number but limits the amount of residential. The policy simply states that residential is allowed, but you are required to provide soundproofing.

Commissioner Ellsworth – Well, how do we get to 4 from 6?

Angie Brosious – Madam Chair, Commissioner Ellsworth. In the meetings with the airport, that is the figure that the airport came up with that they thought would be acceptable. Originally, in our first meetings, they wanted 2 dwelling units per acre and then they agreed to go to the 4 dwelling units per acre and they originally wanted it to be all spread out, they didn’t want to have any clustering or have any multi-family, then they agreed that that would be acceptable as long as we did not exceed the gross density. According to their comments, they were not concerned about runway noise as much as over flight noise and they indicated that they would prefer lower density because the more homes you have there, the more people and the more complaints that they would likely get.

Commissioner Wilson – Further questions? Then we’ll go to closing comments by staff. Do you have any?

Angie Brosious - I do not have any closing…

Commissioner Wilson – Great, thanks. And rebuttal by the applicant then. You have five minutes.

Larry Sale – Madam Chairmen, members of the commission. Larry Sale for Pleasant Valley South LLC. again. I haven’t spent days on this piece of property, but I’ve been out there a few dozen times and spent a few hours each time. I have yet seen an airplane fly over the property. On the other hand, I live near the corner of Cassia and Owyhee, which is about 10,000 feet from the end of the existing runway. And I’m out in my yard a lot, and I see dozens of aircraft fly over my place every day and yet I don’t think the airport gets any complaints from that area. I think the complaints that the airport gets from over-flights are from the area directly in line with the runways and the development around the golf course and the area around Columbia Village. But I’ll get off that. With regard to traffic, if this development dumped all this traffic onto Cole Road, it would be a severe impact. That’s why we’re designing the project so that it will not, the first phase will have frontage on Cole Road. But our primary access will be the extension of Orchard and that will take traffic to and from this development in the north/south access and get it to the interstate Highway so that it can spread out and get on wherever they wanna’ go. Those are the only points I need to make thank you for your time and think about that compromise.

Commissioner Wilson – We’ll close the public hearing and deliberate towards a decision. I’ll hear a motion for the annexation first, and followed by a second motion for the Comprehensive Plan amendment.
Commissioner Orman - Madam Chair and commission, I make a motion that we approve CAR06-0057.

Commissioner Cooper - Second.

Commissioner Wilson – We have a motion and a second. Discussion? Commissioner Orman, would you like to give us some reasons for the motion, the decision?

Commissioner Orman – Well, I believe that this…that we do have a chance to get on the front end of future development with this being a planned community, a mixture of residential and commercial uses. It’s going to happen, so we may has well take the bull by the horns and do something pro-active about it.

Commissioner Wilson – Thank you, further discussion? I agree with Commissioner Orman that this annexation makes sense for the city, it’s a logical continuation of the city’s boundaries. And the zoning designation that is going to act as a holding zone until the master plan comes in I think is a good approach that the city has chosen. This is somewhat unusual, typically we get the annexation, the rezone, and the master plan all bundled together. But I can certainly see an argument for bringing forth part of it now and creating this holding zone until we get the details of the master plan worked out. And this also gives the developers a basis to work from, has given an opportunity for the public to weigh in about what kinds of things they’d like to see out there, so I think that this will be a good addition to the city and, of course, I won’t be voting unless there’s tie. But I think that I’d support the motion if I were voting. Further discussion?

Commissioner Brunelle – Madam Chair, I support the motion. I seconded it, that’s one reason I’m for it. Obviously, it is a logical extension of our boundary. There’s a lot of private land in Ada County south of the City of Boise that a lot of investors have designs for development over time. We need to be at the table, we need them in our tent rather than in the county’s tent. That’s a better analogy to use because we can have more orderly growth and, preferably, growth densities that can support and help pay for the infrastructure that would be extended and other services that would be extended to those properties. I’m all for annexing these properties here.

Commissioner Wilson – Thank you, any further discussion? Alright, all those in favor say “I.”

All Commissioners – “I.”

Commissioner Wilson – Motion carries. Next, I’ll hear a motion for the Comprehensive land plan map amendment.

Commissioner Ellsworth – Madam Chairmen, I make a motion to approve CAR06-0058.

Commissioner Brunelle – Second.
Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Well, we’ve heard a lot about planned communities lately, the Mayor has talked about it and the county’s approved a few planned communities that are not contiguous to existing growth. This particular planned community is contiguous to existing growth, so I support it and I think that planned communities can be a good tool for the city to use. We don’t have a lot of opportunities ‘cause we don’t have a lot of large land masses to do planned communities but they can provide some of the things that the applicant pointed out. They can provide a diversity of housing types and mixed-use, which I think is healthy for the city. I think that anytime that you can keep people out of their automobile and cut down on the number of miles that people travel then you make that connection to air quality. So I think that this particular planned development does that and I would like to also make the change to go to 5 dwelling units per acre. Nobody’s told me I can’t do that, so I’ll throw that out there and make it a little bit higher density ‘cause I do think that helps.

Commissioner Wilson – Does the seconder concur?

Commissioner Orman – Seconder concurs.

Commissioner Wilson – Further discussion?

Commissioner Orman – I think he 5 dwelling units per acre is very appropriate. We’re trying to limit urban sprawl and one of the ways to do that is to put more people per acre. We just heard the deal an hour ago about the Franklin Road project. That was another good example, we’ve had two tonight. I think that that extra dwelling units per acre means an extra 400 homes, possibly. Infrastructure is already going to be in place, the roads will be in place, we may as well take advantage of it.

Commissioner Wilson – Comments?

Commissioner Brunelle – Madam Chairmen, commissioners, I will support the motion. I would have no problem with a 6 dwelling units per acre proposed by the applicant, with all due respect to our airport department with the city. And looking out for what they feel is their best interest, I think that may be going beyond and kind of overshooting their headlights a little bit here in prescribing a density limit that I don’t see a basis for in the Comprehensive Plan for airport influence A. If it’s an appropriate residential use, then to go beyond and to start saying how many units per acre, I just think’s...they’re overstepping their bounds. So I’ll go ahead and support this amended motion as it is, but I think that the applicant in his presentation made some very good points about what he has observed out there. And I live in the east end of town and I think I’m under one of the flight paths and I think it’s just a fact of life here in Boise, with the Southwest Airlines zooming in from Portland three times a day, I see it coming right over the east end of town and it puts out some noise and we hear it at night as well. I’m just not
convinced by what the airport’s concerns are here and trying to limit the number of units per acre.

Commissioner Wilson – Further discussion? Alright, so we before us a motion to approve this at a density of five units per acre below the south Hazel extension.

Commissioner Brunelle – Can we add one more unit?

Commissioner Wilson – We'll make it a motion.

Commissioner Brunelle – I think that’s a good compromise, I do.

Commissioner Wilson – I just wanted to point out that that still is a gross requirement that includes all of the entire area, so that is probably about as far as we want to push the airport, I think. Alright, all those in favor vote “I.”

All Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. And with that, I don’t think we have any meeting notes tonight. We do? Alright. These are signed though, from September 11th? We didn’t have any in our packet. Okay, we’re adjourned.

Approved:

Brandy Wilson, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
October 16, 2006

Commission Members Present
Brandy Wilson/Chairman, Doug Cooper, Andy Brunelle, Brian Ellsworth & Tony Orman.

Staff Members Present
Susan Riggs, Cody Riddle, Bruce Eggleston, Lance Evans, Scott Spjute, Vicki Van Vliet & Mary Watson (Legal).

Deferrals

CUP06-00082/Metro Hotel, LLC. – COMMISSIONER BRUNELLE MOVED TO DEFER TO NOVEMBER 11, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CUP06-00055 & CAR06-00056/Patrick Telleria – COMMISSIONER BRUNELLE MOVED TO DEFER TO NOVEMBER 6, 2006. COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CUP06-00089/Robert W. Grasmick
Location: 9220 W. Ustick Road
REQUEST A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 668 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO INDUSTRIAL LAND USE MAP.

SUB06-00079/Brillheart Subdivision
Location: On the west side of S. Curtis road north of Henry Street
9-LOT INDUSTRIAL SUBDIVISION

SUB06-00085/28TH Street Place Subdivision
Location: On the east side of N. 28th Street south of Hill Road
14-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.
SUB06-00086/Payette Creek Subdivision
Location: On the west side of Lindsay south of Victory
6-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00087/Maranatha Subdivision
Location: On the north side of Fairview on the east side of Cloverdale
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

SUB06-00089/Clearbridge Subdivision
Location: On the southeast corner of Clearview and Collister
3-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION

ON THE CONSENT AGENDA, COMMISSIONER BRUNELLE MOVED TO APPROVE
THE ABOVE APPLICATIONS BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF
LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF
REPORTS.

COMMISSIONER COOPER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CAR06-00055 & CAR06-00056/Patrick Telleria
Location: 3400 E. Barber Drive
REZONE 20 ACRES FROM A-1 TO C-2D/DA.

Cody Riddle presented the staff report with a recommendation of approval.

Jane Suggs (Applicant’s Representative/200 Louisa St./Boise, ID.) – We did file our application
to C-2. We discussed this with other staff members at length and had a pre-application based on
that, but after further review and looking at the C-4 zone we do think that’s an appropriate zone
here. There are no development plans for the property at this time. The C-4 zone does require
that any further entitlement, or any development on the property, will require a planned
development through a conditional use permit. That means that anything that happens on the
property will come back to you with a master plan first as part of the development agreement
requirements and then a planned development after that. The meat of this rezone is in the
development agreement. Staff has outlined those recommended modifications to the
development and it’s in the staff report on the last couple of pages. We agree with those
modifications, we just ask for a couple minor revisions. You might have seen a letter that was
just submitted today based on our meeting with the staff last Friday. In that there is one section
of the development called uses permitted by this agreement. In that statement that will be in the
development agreement we’re only asking that the uses allowed pursuant to this rezone as… to
this agreement shall be those uses allowed in the C-4 zone and this is the additional language we’d like to see: “with the addition that the existing nursery can remain on the C-4 zoned portion of the property.” As you might be aware a large part of that property is not only the Telleria home but also an existing nursery so when the property was annexed the nursery was in existence. It was given the A-1 zone which really isn’t compatible with the existing nursery. This part of the development agreement would allow that nursery to remain without having to go through any other permitting processes. If the nursery were ever enlarged or changed in any significant way there would be a conditional use permit required. But as the nursery stands today, it would be allowed to stay on the property. We’re asking for that minor change in your recommendation of approval. Staff supports this change too. We’re also asking that in the part about the bridge construction, this is the traffic condition found in G on the last page of the staff report, in the second sentence we see that there is an approval of the development based on a threshold of 14,175 vehicle trips per day at Warm Springs and Walnut. We don’t disagree with that and we understand that that is a condition that has been placed on other developments within the Barber Valley that come before Boise City for approval so we ask that that be consistently applied to other developments that might come through in that same area. What we are asking is that in the second sentence that there is a statement: “If development is to occur prior to bridge construction…” and we need to clarify that if that’s bridge completion, bridge beginning of construction, the letting of the contracts so we might to just get a wording change there to understand what bridge construction means there. Tied to that is something for consideration. We agree that the consistent application of this is really our main concern is that all the properties that are looking at being changed or developed in that area be given the same traffic consideration mitigation requirements. We’re also asking that you might consider the fact that prior to the bridge actually being completed, that you might think about allowing development applications to be submitted, development applications to be approved and even utilities and some roadway construction to be completed. In that one condition that’s in the development agreement we might ask that you would consider the language that says instead of approval of any development prior to completion, you might consider approval of any building permits prior to completion. Again it is the building permits and the homes and businesses that will be built in that area that will add to the traffic. This happens quite often when there are traffic improvements that we can coordinate development of private properties at the same time those public projects are being completed. That would also mean that in the second sentence of that particular requirement we would say if building permits are to be issued prior to bridge construction or bridge completion or bridge start, and again there’s some clarification needed there, a detailed traffic analysis and mitigation plan would have to be submitted and approved. We do agree with the compatibility and design statement that’s included in the development agreement. We certainly want to be compatible with the Harris Ranch Master Plan, whichever master plan might be in effect at the time of any development of the property. We also agree with the requirement for a master plan. Of course that’s something that’s part of your Comprehensive Plan, it’s not part of the ordinance, but we do agree that would be a good use of master planning in this particular case. In conclusion we request that you approve the rezone of 3400 Barber Drive to C-4 with a development agreement. Of course you will see in the staff report that does exclude the area that’s in the foothills, we’ve agreed to that. That will remain as
A-1, and including the modification to the development agreement to allow the existing nursery to remain, a clarification on bridge construction that we’d ask for you to clarify in your motion and a consideration of changing the word “development” to “building permits.” That might allow some development applications and even some utility work to occur prior to the bridge construction.

Commissioner Brunelle – We dealt with this question about bridge construction versus completion versus something else when we had Clark’s deal at Gate City. I would seem to me, even though it’s not in Barber Valley, it’s tributary to the Walnut/Warm Springs control point, where we measure our traffic. It seems to me we ought to be consistent with what is there. What did we decide on that?

Mr. Eggleston – The statement is something to the effect of the standard is that Warm Springs or Walnut, at that 14,175 average daily trips, and when there is room to accommodate additional traffic, then the permits would be allowed for, I’m citing the Boulder Heights approval for that language, it’s not tied to the bridge per se, but the bridge presumably would allow that capacity to happen.

Commissioner Brunelle – So, Bruce it would sound like the word completion is probably the closest?

Mr. Eggleston – Correct, when the capacity is available.

Commissioner Brunelle – Thanks.

Commissioner Wilson – Further questions for staff or applicant? I need just one more check, is there anyone in the seating that would like to provide any testimony? Okay…closing comments by staff?

Cody Riddle – Madam Chair, just briefly regarding the construction of utilities prior to construction of the bridge, we would prefer to visit that through the Master Plan process if you would propose and amended language there to where, when a Master Plan is submitted we could look at the appropriateness of installing utilities and things of that nature then.

Commissioner Wilson – Any final questions for staff before we go to rebuttal? Staff or applicant? Okay, rebuttal by applicant.

Jane Suggs – I just want to clarify here that the, uh…we’re talking about not bridge construction but we’re talking about bridge completion and that would be consistently applied as you requested, Commissioner, to all of the developments in that area and that works for us. And that we could consider asking for some possible, some development of applications could be accepted and approved prior to bridge construction and actual utility work and possible road work but no building permits prior to bridge completion, so this condition wouldn’t keep that
from happening. I just want to clarify that if a Master Plan comes in for the project that there would be an opportunity to ask for that, that this developmental agreement would not prohibit that. Is that what I’m understanding?

Commissioner Wilson – I believe so.

Jane Suggs – Okay. And umm…you agree with the change that allows the nursery to remain? I don’t think staff really addressed that, but yeah. Okay.

Commissioner Wilson – Yeah. He nodded when you were talking, so…

Jane Suggs – Thank you.

Commissioner Wilson – That just didn’t show up in the record, I’m sorry. Alright, with that we will close the public hearing and deliberate towards a decision.

Commissioner Wilson – The folks up here just taking a minute to make sure we get all of the wording lined up before we start making motions ‘cause they put those in all capital letters in our meeting minutes so we get a little nervous when we start to do that.

Commissioner Cooper – Madam Chairmen…

Commissioner Wilson – Commissioner Cooper…

Commissioner Cooper – I’ll make a motion to approve CAR06-55 with the following revisions and hopefully I get this right, the development agreement to alter statements to say that the existing nursery can remain on a C-4 Zone portion of the property under recommended modification 1-G that the development occur once traffic capacity is in place with completion of the bridge. I think that’s all.

Commissioner Wilson – Do we have a second?

Commissioner Brunelle – Second.

Commissioner Wilson – Alright, we have a motion and a second. Discussion?

Commissioner Cooper – Madam Chairmen?

Commissioner Wilson – Commissioner Cooper?

Commissioner Cooper – I guess my only comment is that I didn’t address the building permit statement. The idea that that would be addressed during the Master Plan phase of the project.
Commissioner Wilson – Okay. Further comments? All those in favor?

All Commissioners – I.

Commissioner Wilson – Motion carries.

**CAR06-00050 / GEMSTAR PROPERTIES, LLC**
Location: 3750 S. Maple Grove Road
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 9.8 ACRES FROM ESTATE DENSITY (3 DU/ ACRE) TO LOW DENSITY RESIDENTIAL (6 DU/ ACRE).

Cody Riddle - Presented the staff report with a recommendation of denial

Commissioner Wilson – Thank you, any questions for staff? Alright, then next we will hear from the applicant.

Ashley Ford (Planning Project Manager, WRG Design/ 453 S. Fitness/Eagle, Idaho) – May I approach?

Commissioner Wilson – Thank you. For the record we have received a set of handouts from the applicant.

Ashley Ford – Honorable Chairmen, members of the commission. I am here tonight on behalf of my client, Gemstar Properties. First of all, we really do appreciate Cody and the work he’s put forth on this project. Obviously, we’re disappointed we are here before you this evening with a recommendation of denial. My client always does their best to try and work these things out before we get here but, unfortunately, we’re just at a point where we simply agree to disagree. To begin with, we respectfully disagree with staff as we believe there are several compelling reasons as to allow a comprehensive plan amendment from a state density 3 to a low-density 6 on this site. First, this site is less than 1,000 feet from the current planned community designation on your comprehensive plan. Second, the overall density of the square mile for this development lies, within’ this development is approximately 1.6 dwelling units, even with this development as proposed, and there is currently very little land left in this square mile left for re-development. Third, this site is located within’ ½ mile of major employment and regional shopping opportunities. Fourth, the presidents of several other developments within’ the square mile that were also underneath the state density 3 dwelling units per acre designation and were approved with R-6 and R-8 zoning, and you can see these on the existing land use map that I have provided you this evening. The fact that the comprehensive plan is just a guide and does allow for flexibility for changing conditions and that is the reason why we’re here before you this evening. And, lastly, the demographics for the Treasure Valley have changed a lot since 1997 and they are continuing to change and there is a need for diversity of housing, such as this, that is
within’ an amenity-rich development. Before I continue, I’d like to back up and give you a little history regarding this site and our request. In July 2005, an application for a rezone to R-8 with the development agreement, a master site plan, a planned unit development application and a preliminary plot application were filed with Ada County Development Services. Prior to making the application, County staff felt comfortable that the applicant was meeting the overall intent of the Boise City Comprehensive Plan on a large scale as, again, the overall density for the square mile was well under the state density 3 dwelling units per acre. And the chances for the overall development were very slim due to the already existing land uses within’ this square mile. In addition, there have been several developments that have been approved as area-of-impact subdivisions by both Boise City and Ada County at much higher zoning designations than a state density 3 dwelling units per acre land use designation and were not required to go through the comprehensive planned land use map amendment. And these developments are, again, shown on your existing subdivisions handout. However, after making the application, County staff believed it would be in our best interests to pursue a map amendment due to a new policy at the time that the City of Boise would not extend municipal sewer services to any area-of-impact subdivision that they did not support. County staff felt that we should go through this process with the City prior to moving forward with these applications. With that recommendation, the project architect and I met with Boise City staff to discuss the site plan and what we would like to achieve with the project and this was the site plan that was presented to staff. We were told by both City Planners that we met with that they felt that we were proposing a project that could be supported by a comprehensive planned amendment due to a myriad of reasons. First, again, we are adjacent to the future, 160 acre, Murgoitio Park. They felt the proximity to the large regional park warranted higher densities. Second, the overall design of the project and the proposed elevations. Third, the numerous amenities being presented with this project. Fourth, the fact that this is truly in-fill, although it is area-of-impact. Fifth, the likelihood that the Boise School District would be constructing a Junior High School immediately to our east of this site. And, lastly, it’s only Murgoitio Park that is separating us from the planned community designation. Staff’s overall recommendation was to submit a comprehensive plan map amendment request and to make sure we submitted our proposed concept plan to help to sell the project and that is exactly what we have done. So thus, we submitted the concept plan for Piazza Park and while we understand that this is not for approval this evening, I would like to walk you through this a little bit. And, as you can see by the elevation renderings, which are on the very top of the board, and on the handout I have given you, most of the town homes are in groups of three and four. As currently designed, the overall development contains 66 single-family townhouse lots, and the overall density is 6.85 dwelling units per acre. We put a lot of thought and effort into this architectural feature. Each unit has different front and rear facades, allowing for modulation in setbacks and appearance. In addition, the town homes in each grouping vary between one and two stories in height, allowing for variation. It is also important to note that the proposed town homes that the garage will be setback greater than the living space and this will allow for a more scenic streetscape than the usual garage dominance in many residential developments, and the main jewel of the development is intended to be the park. There are many amenities associated with the park. The park includes a putting green, bocce ball, shuffleboard, a large gazebo with barbecue equipment, a tot-lot, a walking track, and a community garden. And while the marking
of this project will not be limited to older, active adults, we believe this market will be attracted to this development due to the amenities, the close proximity to shopping and the location next to the park. And, in addition, we envision younger families will be attracted for the exact same reason, along with the opportunity to be near employers located in the industrial parks along Victory road. We appreciate staff’s analysis of the land-use policies applying the specific area and are sensitive to those policies…primarily policy 8.13.12 which states: “Properties on the south side of Overland road, north of the planned community designation are intended for subdivision and development and densities generally between 2 and 4 dwelling units per acre. When development occurs in the county, the zoning that should closely replicate the R-1B should be selected.” But it goes on to say that “if open space is provided that approximates that required by the Boise PUD requirements, county subdivisions may exceed 3.5 dwelling units per acre.” And this project will meet or exceed the Boise PUD requirements for amenity and open space, and Ada County requirements as well. To summarize, we realize we are only here for the map amendment this evening and that you, the commission, need to be able to make adequate findings in order to recommend approval for the council. In that packet that I have provided you this evening we have provided you a memo outlining our proposed draft findings. We believe the following: Finding A. That the amendment is required for the public convenience or necessity or for the general welfare of the community. Okay, the site is located within a half mile of major employment, and within one mile of regional shopping opportunities, and, again, demographics of the Treasure Valley are changing and there is a need for a diversity of housing as this rather than the standard single-family residential subdivision that you see in this area. Finding B. That the amendment is necessary to address changes and conditions within the community that have occurred since the Comprehensive Plan was adopted, or as necessary to correct one or more that exist in the plan. We believe the precedence of several other developments, within the square mile, that were also under the state density 3 designation and were approved with R-6 and R-8 by this council show merit to changes of the conditions. Also, the acquisition of the 160-acre Murgoitio Park to the south since the comprehensive plan was adopted is a change, the likelihood of a new junior high school on the property immediately to the east, and to mention, again, the demographics of the people of the Treasure Valley have changed since 1997. Finding C. That the amendment is in compliance and will further the goals, objectives, and policies of the plan. Finding D. That the amendment will not create inconsistencies between the goals, objectives, and policies. I would like to refer you to pages 2-5 in my letter or intent dated August 28th, 2006, for assistance with these findings. I have about two pages worth of findings that Cody mentioned to you, mostly in the community design standards, but I do believe that these are consistent with findings C and D are needing. Lastly, Finding E. That the amendment will not place an undue burden on transportation or other public facilities in the planning area and does not adversely impact the delivery of services by any political subdivision providing services. Adequate services are available such as water, sewer, power, and gas, and they are currently within Maple Grove road, and we do have will serve letters from all the utilities, and the project does take access from Maple Grove road, which is classified as a minor arterial at this location. In meetings with ACHD, they did not have any concerns with our traffic impact. We also asked if we needed to do a traffic impact study. They said, “no.” However, if the appropriate jurisdiction at the time of our development feels it is
necessary, we’re happy to do so. It is not a problem at all. In closing, we believe there are adequate findings and compelling reasons that can be made for approval for this map amendment. We hope you agree, and we respectfully request your recommendation of approval this evening. I am happy to stand for any questions you may have. Thank you.

Commissioner Wilson – Any questions for staff or the applicant?

Commissioner Brunelle – Cody, I’d like to hear your take on the draft findings that Ms. Ford provided us, in particular Finding A, as that seems to be the crux of the matter as far as being able to make a finding that the amendment has required for public convenience or necessity, or for the general welfare of the community.

Cody Riddle – Madam Chair, Commissioner Brunelle, as I stated before, staff felt that the amendment isn’t required for public (gentleman coughing), rather it’s just to double the allowable land density on this site. Further, I’m not sure what the major employment center is that’s within a mile of the site. I assume, maybe, the school district development along Victory road. Other than that, staff didn’t feel this finding was met.

Commissioner Wilson – Further questions for staff or the applicant?

Ashley Ford – Absolutely. You know, I work for the City of Boise for two years, and during that time between 1999 and 2001, I approved several light industrial business parks that sit between Maple Grove and Five Mile on the north side of Victory road. There are a lot of things happening in those business parks. I’m not sure how familiar you are with that area. I drive by there quite often. There is quite a bit of an employment base there. People obviously want to live near where they work; I’m one of them. Unfortunately, I can’t afford to live in Eagle, but, that aside, people do look for those tendencies, and I think those industrial projects have come on board since the adoption of this Comp Plan. I think the demographics are changing, people don’t want to have to commute. Obviously, I do that. It’s not a whole lot of fun. Also, I think one of the things that we need to look at is higher densities in areas where it makes sense, especially for a site that is very difficult at best, that is constrained by uses, and we need to make use of also the Murgoitio Park as well. You will go through the park and recreational Comprehensive Plan chapter and it does encourage higher densities next to the parks. We really think we have met that finding honestly, and I’m happy to stand for any more questions you may have of me.

Commissioner Wilson – Further questions for staff or the applicant?

Commissioner Cooper – I got a question for Cody. On this little piece of Comp Plan Map it shows the parcel just north of the canal is has a lot of similar colors, maybe I’m misreading it, but it looks to me like the area designated as planned community is the same as the area designated for the park. Is that right? If it’s wrong, what the parcel that is planned community?
Cody Riddle – Madam Chair, Commissioner Cooper, the actual land use map from the Comp Plan is here on the screen. Maybe that clarifies things for you? Does that clarify?

Commissioner Cooper – Could you point to the planned community parcel again?

Commissioner Wilson – So Cody, it’s the green crosshatched areas that’s the planned community, then the planned community designation, and then the solid green is the park.

Cody Riddle – Madam Chair, that’s correct.

Commissioner Brunelle – Cody, back on this Finding A. The question I have is what would we be looking for when we do talk about public convenience or necessity, or general welfare? We are not looking at these questions about, I guess you could say, are economic or employment related. What are the goal posts that these folks need to be able to kick the ball through?

Cody Riddle – Madam Chair, Commissioner Brunelle, I believe they probably are on the right track with this finding, based on their justification, that additional density in this area may be appropriate due to the location of those employment centers, however, a combination of all the findings failed to be met, so their justification on this specific finding is probably on track.

Commissioner Wilson – Further questions for staff or the applicant? Okay. I don’t have anyone signed up on the sign up sheet. Is there anyone who wanted to testify on this application this evening? Alright, I don’t see any takers so Commissioners this is your final opportunity for questions before we go to closing comments. Alright, any closing comments by staff? Okay, rebuttal by applicant? Alright, well with that we will close for the public hearing and the commissioners can deliberate towards a decision.

Commissioner Brunelle – Madam Chairman, I will go ahead and get things started with a motion and we’ll probably want to have a little discussion here, but I’m going to move for a denial of CAR06-00050 consistent with the staff report.

Commissioner Wilson – Do we have a second?

Commissioner Cooper – I’ll give you a second for matters of discussion.

Commissioner Brunelle – What I want to point out to the commission is what we’re doing here is making a recommendation to the City Council, who ultimately will make an amendment to the Comprehensive Plan Land Use Map. I think where the biggest problem with this is is with that first finding that we have to make that amendment required for public convenience through necessity or for the general welfare of the community. The applicant did give us some findings here, but I think that there is something missing when we talk about things like general welfare. It just seems to me that the words that are used in that portion of the Boise ordinance would be speaking to things about public infrastructure, transportation, public use, rights-of-way, and
public safety. There needs to be some sort of consideration brought in on that, and I think the staff is correct in where they headed with this for those reasons, and that’s why I would recommend that we would support denial of this in our recommendation to the City Council.

Commissioner Wilson – Further discussion?

Commissioner Cooper – Madam Chairman, I think I’m being swayed by Commissioner Brunelle. I tend to agree that it would be potentially good to have some higher density here, but I don’t see a city-wide land need for it, and I’m not convinced that it’s a general requirement, but it is more of a specific to this application.

Commissioner Wilson – Further discussion?

Commissioner Ellsworth – Madam Chairman, I guess I would argue that you could say that this general welfare requirement could be met by increasing density if we’re really trying to mitigate urban sprawl, and so anytime we get a chance to increase density, especially when there is no opposition, we might be benefiting the general welfare of the community. Unless we’re trying to protect open space because there is a planned community that’s going in next to it and the planned community is gonna use the infrastructure that’s out there, then maybe this makes sense. So if you kind of tie that together with this parcel then maybe it doesn’t meet that. Is that kind of what we’re thinking here, because there is a planned development down the street that it will eat up traffic and utilities that are out there available to this area?

Unknown speaker - Madam Chairman and Commissioners, that raises good points I think both in favor of the applicant, as well as what the staff report is. The planned community is clearly going to be higher density. This is an area that, as its developed, in many of the surrounding areas I conceptually could support a higher density, but I guess I’m having trouble just getting over this public convenience or necessity, or for general welfare question. I know we’re not supposed to get into the proposal itself, because we’re really just talking about changing the map, but it just seems to me that, you know, if you’re gonna have west Junior High school, which I think is the one that would be built direct due to the east, and you’ve got a large city park due to the south, maybe there is some sort of public convenience that needs to be part of the design of this. I don’t know if there needs to be connectivity from this property for future development to those other parcels or not, and I don’t think that should be a point of leverage on our approval at this point in time, but it would just seem to me that those are the kind of the questions should be asked and that maybe staff was trying to get at. So, it is a hard call for me, but I just kind of stuck on this public convenience necessity and general welfare question.

Commissioner Wilson – Well commissioners, I won’t be voting unless there is tie, but I tend to agree with Commissioner Ellsworth that we can make Finding A with the general welfare of the community with the increasing density. I think that if we can increase density and foster more options for alternative transportation by increasing the amount of rooftops, then we can improve air quality and get out a lot of those other comprehensive plan goals that we have. And this is a fairly small parcel that’s surrounded by what will be a lot of open space with that park and with
the Junior High. So I think that we could make that finding just based on those. Any other discussion?

Commissioner Cooper – Madam Chairman, I was just looking at the very helpful documents that were submitted this evening. Particularly, the land use one and I, you know, this future park is surrounded by density’s similar to what is being proposed here and it occurs to me that if we were looking a…not a Comp Plan amendment, but a rezone and a plan that it would probably be very encouraged to approve it. It is the fact that we’re not supposed to be thinking about those things that I’m having trouble with.

Commissioner Wilson – Further discussion? Alright then, we’ll go ahead and call for a vote, unless you have any other comments? All those in favor of Commissioner Brunelle’s motion to deny the project vote “I.”

Two Commissioners – “I.”

Commissioner Wilson – Opposed?

Two Commissioners – “I.”

Commissioner Wilson – Well I guess this is a tiebreaker, and I’m going to vote “no.” So, we’ll entertain a replacement motion.

Commissioner Ellsworth – Madam Chairman, I make a motion that we approve CAR06-00050.

Commissioner Wilson – Do we have a second?

Commissioner – Second.

Commissioner Wilson – Discussion?

Commissioner Ellsworth – Well, I think we’ve talked about some of the findings in our conclusions with…in particular, Finding A…How we can send a finding onto City Council that mitigating urban sprawl and increasing density is of the things that’s supported in the Comp. Plan and does meet the general welfare requirement of Finding A. And I really think that the applicant and the city have given us pretty good findings on both sides, so I think that we have the findings in front of us given to us by the applicant that are taken out of the Comp. Plan and those are entered into the record and can be used to support this.

Commissioner Wilson – Alright, further discussion?

Commissioner Cooper – Madam Chairman, despite my previous vote I think I’ll support this motion. I would add this statistic that keeps sticking in my mind and that’s that it relates to Finding B that an amendment is necessary to address changes and conditions within’ the community. I think that two-thirds of the households in Boise are now two people or less. So,
that really points to higher density developments and I think I’m already convinced that that’s appropriate here.

Commissioner Wilson – Further discussion?

Commissioner Brunelle- Madam Chairman, just a couple of comments. I’ll be voting “No.” I’m not swayed that this will all help do something about sprawl. Unfortunately, we have other local government that are approving development outside of the city that are adding to sprawl and I don’t think that this is going to take the wind out of their sails at all. So…I’m not swayed by that. The second thing though that would be helpful, I think we’re gonna have a couple more of these tonight, but for staff I think over time would probably on questions about public convenience, general welfare, there ought to be some sort of guidance or clearly a track record because I’m sure it has gone on for a long time that how we should define these terms and be able to give a applicants, as well as a commission, clear idea on what we’re talking about. Maybe sprawl and I mean sprawl does fall into that…I don’t know, but I’m not on board with that tonight.

Commissioner Wilson – Thank you, Commissioner Brunelle. Further comments? Alright, all those in favor of the motion to approve this application?

Commissioners – “I.”

Commissioner Wilson – Opposed?

One Commissioner – “No.”

Commissioner Wilson – Motion carries.

CAR06-0049 / Dorothy McKay

Location: 9840, 10512 & 10558 W. Hill Road Parkway

REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 17.64 ACRES FROM THE FOOTHILLS PLANNING AREA TO NORTHWEST PLANNING AREA WITH LOW DENSITY RESIDENTIAL 4 DESIGNATION ON THE LAND USE MAP.

Bruce Eggleston presented a recommendation of approval.

Alright, so we’ll move onto…Actually, before we start the Quasar I would like to jump ahead on the agenda to agenda item number seven, which I think we can take care of fairly quickly. Is there anyone here who would like to testify on this topic? Testify in opposition to this application? Ok. Since we have no adverse public testimony I would like to ask for an abbreviated staff report…or, if the commission pleases, we could also just waive the staff report?
Bruce Eggleston – Sure.

Commissioner Wilson – For waiver? Okay. We’ll go ahead and waive the staff report; we have any questions for you. The applicant, do you have anything that you would like the present or anything you’d like to bring up for us?

Richard Stover (300 N. 6th St. Boise, ID. 83702) – Madam Chair, my name is Richard Stover, on behalf of the applicant.

Commissioner Wilson – Would you please state your name and address?

Richard Stover – Sure. Madam Chair, members of the commission, I’m Richard Stover. Generally speaking, I wouldn’t have had much, if anything, to add to the staff report. We support everything that they have mentioned in the staff report. From what we understand, there’s no opposition from the neighbors, particularly folks that were added into this application by staff. And, in fact, from what I understand at least one of those neighbors did call the staff recently to indicate their support for including them. With respect to the proposed findings (we think they are accurate), I have a few things that I do wish to add to those. Obviously, the first one is the topic of some contention today at the proposed application, in addition to the proposed findings by the staff. I’d also like to point out again that first of all, there are no development plans that are imminent. This is essentially a cleanup since the ’97 resolution when the 160 acres just to the north of these properties were seated to the city of Eagle, left in isolation out there. So the applicants, although there are no immediate development plans, this would address some of the benefits to the community. One such is mentioned in the staff reports and that would be that any such development, there would be a commission on there to add a bath along the canal to access would maybe...helps property above this. We are aware of the fact that because this is in the foothills area, and any such application like this should be viewed with caution. I’d like to address the commission’s attention to the pictures that were submitted with the application. I think you’ll find that, as was stated in the letter of explanation, this is not really a foothills-type property, it’s very flat up there. Inspection of land has revealed no real wildlife corridors, there’s certainly not really any Riparian areas or endangered species issues. Any future uses of the property would have very little (if any) impact to the surrounding neighborhoods. The only property that would maybe potentially change its use that we’re aware of is my clients, Dorothy’s. She would not be doing any of that herself...this is just a cleanup for her and gives her some flexibility down the road. Additionally, from what we understand from ACHD’s perspective, there are no issues with respect to transportation and other public services. With that, members of the commission, I think that this staff report speaks for itself and we’re in support of that and I’d stand for any questions.

Commissioner Wilson – Thank you very much. Any questions for staff or applicant about this application? Alright, thank you. This is your last opportunity for questions, and then we’ll go to closing comments. Okay, any closing comments from staff who never had any opening comments? (laughs)
Commissioner – No, Madam Chair.

Commissioner Wilson – Oh, good. Thank you. Anything else? Alright, with that we’ll close public hearing and deliberate towards a decision.

Commissioner Ellsworth – Madam Chair, I make a motion to approve CAR06-49.

Commissioner Brunelle – Second.

Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairmen, I think that the staff has all of the right findings regarding the decision. In the staff report, I read through it and it’s basically a cleaning up of this…probably really shouldn’t be considered foothills. I do think that it should be a pretty hard bar to remove anything from this area…work that went into the Foothills Plan and it’s been tried before and I think this commission takes it very seriously. I think that staff and the City looked at this piece of land and they clearly support it, so I don’t have problems with reasons.

Commissioner Wilson – Thank you. Further comments?

Commissioner Brunelle – Madam Chairmen and commission, I’ll support the motion. The one concern I do have is there was nothing here in the record, no comments from city parks and recreation, no comments from the City’s Foothill Advisory Conservation Committee. I think that we need to pass this stuff by these folks or extract a response from them. Maybe you did pass it by them and I see Scott nodding his head…so sometimes those requests for information go unanswered. And there still would be a chance, I would hope, that they could at least weigh in when the City Council looks at this Comprehensive Plan change. I do have some concerns, and Bruce and his report pointed it out that we shouldn’t be setting precedent and removing some of these areas. My response to that is I think that horse left the barn with Gate City Steel and I think we’re now on the disturbing trend (is what I would call it) or disconcerting trend that we are removing areas and I think we need to take a hard look at them. Yes, these properties do not have the foothills values of wildlife habitat, recreation, things like that that clearly set out the icon if this city and Mr. Stover, on behalf of the applicant, I think pointed that out adequately. But we also have to remember that we drew the lines around a planning area, what the purpose if there would be lands within’ that planning area that would be developed, and that they don’t all have the highest habitat quality. There is an argument for keeping some of these areas in the foothills, in order to be able to cluster development and to help leverage some additional open-space protection. I’ll support this motion with the hope that at least the Foothills Advisory Committee or city parks could at least have some comments for the City Council when it goes on their agenda.
Commissioner Wilson – Thank you. Further comments? All those in favor of the motion vote “I.”

All Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. With that, we’ll be taking up items 4, 5, and 6 on the agenda together.

**CAR06-0041 / Quasar Development**
Location: 916 E. Park Boulevard
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 1.738 ACRES FROM COMMERCIAL DESIGNATION TO MIXED-USE DESIGNATION ON THE LAND USE MAP.

Susan Riggs presented the staff report with recommendation for approval.

**CAR06-00042 / Quasar Development**
9163 E. Park Boulevard
REQUESTS APPROVAL FOR A REZONE OF 1.738 ACRES FROM C-3D TO R-OD

Susan Riggs presented the staff report with recommendation for approval.

**CUP06-00056 & CVA06-00023 / Quasar Development**
Location: 916 E. Park Boulevard
REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT A CONDOMINIUM PROJECT CONSISTING OF 90 RESIDENTIAL UNITS WITH RETAIL/COMMERCIAL ON THE 1ST FLOOR ON 1.74 ACRES LOCATED IN A PROPOSED R-OD ZONE. THIS INCLUDES A REQUEST FOR A HEIGHT EXCEPTION AND SETBACK VARIANCES ALONG E. PARKCENTER BLVD. AND E. PARK BLVD.

Susan Riggs presented the staff report with recommendation for approval.

Commissioner Wilson – So, we’ll start with the staff report. Susan?

Susan Riggs – Madam Chair, members of the commission. As a note, the commission received an e-mail today from Richard Ripple (and from John Knipe that was submitted to you before the meeting this evening. We also received a letter that was submitted to you from the Downtown Boise Association in support of the development, as well as a petition and opposition to the development with 48 signatures and this is a petition that was submitted in May. The other previous petitions that were not included in the staff report are in your packet because they pertain to the original application on the submitted early this year. The applicants met with the planning director and staff several times to discuss how to actually proceed with this conditional use application and for the mixed-use development. The existing zone, as you know, is C-3D
and that allows a density of 43.5 DU/acre. The applicant is proposing a density of 52.2 dwelling units per acre. With the removal of density bonus from the zoning ordinance, which occurred last March, staff examined several different strategies that could possibly fit the existing neighborhood. For the following reasons, the R-OD zone seemed to be the best fit, allowing 87.1 dwelling units per acre. Based on the demographics of the area, the mixed-use land designation will be compatible and appropriate land-use designation and will accommodate the appropriate R-OD zoning and the proposed density. The adapted regional demographics and communities in motion model show that the traffic analysis for zone 36 (which is this) in 2005 estimated 68 households. In 2030 the forecast is for 187 households. This will fall in the sum, this proposal for additional 90 DU would fall into that forecasted model. In this mixed-use land designation is a logical classification into this location. It will provide a transitional buffer between the commercial office development on Park Blvd. and the adjacent medium density residential town homes to the East, which is Strawberry Square, and the higher-density apartment units, which are to the South. Staff finds that the land-use amendment and the rezone are in compliance with the comprehensive plan and that they will further the goals, objectives and the policy of that plan. Objective 8.1.3 states that the city should achieve a compact city comprised of a central downtown and surrounding neighborhoods that have a central focus combining residential, commercial, employment, civic, cultural, and recreational uses. Policy 8.3.13 encourages maintaining a land-use map that provides residential densities in and around the workplaces, shopping places and activity centers and along the designated transit routes. The site is located on the fringe of downtown, which serves as a major employment center. Front St. turns into Parkcenter Blvd. just North of the site and serves as a connection to the connector and this is a mixed-use corridor. Currently, the mixed-use designation terminates at Boise. However, staff feels that it is a logical continuation to continue this designation to the East. The comprehensive plan has many inter-connected policies that encourage development to look at mixed-use neighborhood settings and contribute to a viability of the neighborhood which provides services, neighborhood commercial use and employment centers. The site is located on a primary transportation corridor and is within’ walking distance to commercial businesses, restaurant, parks, the Boise Greenbelt, Boise State University and other recreational facilities in the area. As the city of Boise’s population grows, there is a need and demand for housing in and around the downtown area. Transit is available to and from the site with options to transfer to other bus lines. Transit is available to and from downtown. As the transportation cost and the traffic congestion increases, so does the desire to live closer to the downtown area, to the employment’s, to school, to shopping, etc. Moving on to the proposed development, is a brief overview. In January 23rd 2006 a planning and zoning commission did review a proposal for 175-sq. ft. 12-story building. This building was 147-ft tall; it was a mixed-use building. After several meetings with the neighbors, the height request was changed from 147-ft to 119-ft. After listening to the testimony of neighbors on March 16th, the public planning commission recommended denial of the application. In March of this year, the city council moved to remove the 20% density bonus provision from the code, which has instigated the application for the rezone and land-use map. A new application is now before the commission. A first floor of the building will accommodate approximately 21,000 sq. ft of commercial space designed for boutiques, small restaurants, and maybe some office use. Parking for the commercial use, as
with the first application, is located behind the structure. None of the parking will be visible from the street, thus enhancing the new urbanism design of this building. The Boise city comprehensive plan encourages new development in the North and East End neighborhood to utilize the standards of new urbanism design. The balance of the project is residential; the applicant is proposing 40 1-bedroom units and 50 2-bedroom units and on the 3rd floor of the development the applicant is proposing a large garden terrace which opens up to a 7th floor. A fitness center with pool and spa, an interior atrium, they have skylights up to the roof-level. In addition to the public open-space, each of the outside units of the development will have private balcony space as well. Moving on to the height exception, the applicant is requesting to exceed the 35-foot height limit of the R-O zone. It was 45-ft in the C-3D. Our proposed building is 7-stories; the maximum height is 79.6 ft as it’s measured to the top of the elevator tower. The overall height of the building has been reduced by 67-ft from the original application. Building steps down in the center to 58-ft and then back up to 68-ft and 6 inches at the North end of the building. Originally, the residential units were concentrated at the South end of the building. The applicant has now distributed the height and mass of the building horizontally, across the structure, as opposed to concentrating it vertically, at one end. The proposed building is approximately 30-ft and 4 inches lower than the adjacent. Washington Group Office building to the West, which is also a 7-story building that is 110-ft. Strawberry Square town-home that’s located across the street, across Parkcenter Blvd. The town homes enjoy (as you can see from this picture which is taken in the summertime) a large, dense, and mature landscape buffer consisting of evergreen and deciduous trees which is inside a 15-foot screen wall. This picture was taken in the winter and you can see that the foliage still provides reasonably dense coverage for the town homes, even though the deciduous trees have lose their foliage. The wall extends the full length of the development of Strawberry Square development along Parkcenter Blvd. The town homes are approximately 200-ft West of the proposed building, across Parkcenter. The development to the South, the apartment buildings, are approximately 100-ft, across Park Blvd. This is a 3-story apartment complex and it also enjoys the same benefits of your own foliage along Park Blvd. and Parkcenter Blvd. Moving on to the variance, the typical street setback in the R-OD zone is 10 ft. However, because Parkcenter Blvd. is identified as a gateway street and East Park Blvd. is classified as a principle arterioles, they do require a 20-foot setback. The applicant has requested a 10-foot setback of these streets. East Parkcenter Blvd. is constructed with a separated sidewalk. The applicant is proposing tree grades approximately every 50-ft along the Blvd. to provide a friendly pedestrian environment. Staff finds that there is an exceptional circumstance pertaining to the intended use of the property, which is not generally applicable to other permitted, uses in the district. The proposed setback along East Parkcenter Blvd. is 10 ft. However, the actual setback to the edge of the sidewalk is 27 ft. This meaning the intent of a 20 foot wide gateway setback. Although the building is not downtown, it is an urban development with storefronts proposed at the ground level. A variance will have no impact on the town homes located across Parkcenter Blvd. or to the apartments located across Park Blvd. In addition to the large setback, the 15-foot screen wall, as was shown earlier, will provide that separation from the property. Now, in the situation, all the parking is located within the building, it’s not visible from the street and that’s one of the intents of the gateway setback, is to provide a buffer for the parking. But again, in this situation the parking is not visible to the
street. The parking on Park Blvd. is going to be 27 ft, 7.5 inches from the back of curb. As with Parkcenter frontage, parking is not visible to the street and there is tree grades every 50-ft. In addition to the 100 ft of separation, there is a landscape median that you can see right here on Park Blvd. which provides even a further separation between the structures across the street. In terms of traffic, the Highway District did review the development plan and has no specific or general conditions or approval. East Parkcenter Blvd. and Park Blvd. are classified as principle arterioles. Both roads to operate a level of service C, acceptable level of service for these roadways is D. The applicant has hired Dobe Engineers to do an independent traffic study, and I'll let the applicant address that tonight when they speak. The neighborhood meeting, the applicant held 2 neighborhood meetings which they'll discuss with you as well. To date, staff has received the e-mails from Jamie and John Knipe, Tom Whitworth and Richard Ripple. Other than that, staff has not received any phone calls prior to this hearing or any other e-mails discussing this application. Staff is recommending approval of all 4 applications. I'll stand for questions.

Commissioner Wilson – Any questions for staff at this point? Alright, next we will hear from the applicant.

Joann Butler – Good evening, commissioners. Sorry, was that too loud? Joann Butler, representing Quasar Development (251 E. Front St. 83702) here in Boise. And with me here tonight are Amanda Alvaro from Quasar Development, Shaun Nickel from SLN Planning and David Waldren from Waldren Architects. And Mr. Nickel will follow me briefly to talk about the planning process and those discussions with the neighborhood associations and Mr. Waldren will be reviewing the site plan and it’s further talk about the compatibility with the surrounding neighborhood in all directions. Of course, this proposal would also have to go through design review to show that we also meet design compatibility with the surroundings. So let me begin with…in connection with the comprehensive plan amendment and rezone, we are asking for a comprehensive plan amendment to the map. Just to the map, to get away from the intent C-3 zoning. Not that this particular land owner would use these C-3 uses, but the present C-3 zone allows (not by conditional use, but outright allows) uses such as intents of service and some industrial uses like service stations, bus stations, truck stops and truck terminals, mausoleums and mortuaries. When I found out about that, I had to ask myself “how did this property ever become C-3 given it’s location?” And I suspect it’s probably a remnant of the W-GI and K-1 that originally developed property development. But is certainly not appropriate in this area where Parkcenter Blvd. and the West Parkcenter bridge and especially when the East Parkcenter bridge is finished in the near-future (that was with fingers crossed), creates a gateway from the South and the East into our downtown area. At previous hearings, some people stated that the property owner should just live with the C-3 zone, implying that we were trying to skirt the zoning ordinance by asking for a change. But, quite honestly, the C-3 zone at this location, for this neighborhood, is something that ought to be seriously avoided. Staying the course with C-3 zoning will not help the neighborhood. C-3 zoning is a possible prelude to disaster, and the R-O zone with design review is, according to the professional planners, the appropriate zone to promote the public convenience, necessity, and welfare. And for Commissioner
Brunelle’s…convenience, necessity, and welfare is a phrase that’s not unlike the phrase “quality of life.” And what our courts have often tried to explain to us is that we’re talking about fairly sharing the benefits and burdens of our increasingly urban life. And so, when you’re looking at changes to planning, changes to zoning, you’re asking yourselves “Is it compatible? Does it help fairly share the benefits and burdens of our increasing urban life?” And if so, then it’s a good chance that we meet the public’s convenience and welfare. Of course, to rezone to R-OD, a comprehensive plan amendment to the map is needed. Please note, again, that it’s a map only. The comprehensive plan is made up of 11 different elements, the map is just 1 of them and is no more important than any of the other 10 elements and we are only attempting here to make that map consistent with the other 10 elements. To make the comprehensive plan map consistent with the text does not unduly burden public facilities, it makes the amendment to the comprehensive plan map consistent and promotes the goals and objectives of the comprehensive plan text, including the goals of the North and East end plan to promote new urbanism. So, as recommended by staff, we are respectfully requesting that commission recognizes the urban transitional nature, but for this nature of this mixed-use we are trying to straddle the higher intensity commercial use and the surrounding uses. So we are going to ask you to please amend the comprehensive plan so that it allows to rezone to R-O. Before I turn the podium over to Mr. Nickel and to Mr. Waldren (who will discuss compatibility further), I want to talk a little bit about the variance request and the height exception. With regard to the variance request, few know that that request is not an automatic right. But the commission does have the ability to grant that variance to the setback based on ____ (tape 1 #3680) hardship caused by the particular characteristics of the site or actions of others, so long as the variance does not conflict with the public interest. There must be very few parcels in Boise that resemble the unusual island that’s formed by the roads in this area and possibly could add insult to injury. The amount of right-of-way that was taken by ACHD for these roads was clearly in access of what is needed for the roads. I don’t know if you can…maybe could be lighten that a bit so that you can see where the property line is versus the road? So you can see where the line closest to the building is 10-foot, is 27-ft from the curb. You can see where the property line is 10-ft from the septic line that we’re asking for. So the extensive, unusable to ACHD take, has caused a hardship for this land owner, making it reasonable to grant a 10-ft variance…especially when there’s an additional 17-ft between the property line and the roads that will be used for an extensive streetscape and landscape buffer. What the variance provisions of the zoning ordinance do is provide some relief from hardship. We’ve heard from some, I’ve read from the previous test hearings and the reporters reported in the paper last week that because we’re asking for a setback variance, we’re somehow circumventing the zoning rules. But we’re not…this is not a giveaway of a setback, but precisely the use of the zoning rules, requesting a variance, as we are, under these really unusual circumstances. When a hardship has been created by government action, when the senate characteristics are so unusual, the city and its zoning ordinance does not just say “too bad, so sad.” The zoning ordinance allows for flexibility under harsh conditions. So we’re not avoiding, but we’re using the zoning ordinance. With regard to the height exception, which is governed by the conditional-use criteria, some people at previous hearings have said that they had a concern about height exceptions in general. Wondering about how those happen and, again, our zoning ordinance allows flexibility in the actual height, so long as the conditional use
criteria are met. And a height exception makes sense in this particular situation where the most immediate buildings are over 30-ft taller than the proposed, which, as designed, provides the transitional height variation from a WEGI buildings to the surrounding buildings and neighborhoods, also with a further buffer of over 250-ft of right-of-way. At the previous hearings, sometimes at the prompt of the commissioners, people were asked, “what kind of height would you support?” And the answers were anywhere from 121-ft, 96-ft, 75-ft, halfway between 110, and 45-ft (which is basically what we have here). So, I think that you can see that many people have said what was presented before was too high, but we hope to show the commission here tonight that what we’re doing here tonight is very much in the way of transition and we do meet the conditional use criteria as shown by the staff. Finally, I’ve read in the transcript from previous hearings that some people are concerned that when we seek a conditional use here, it’s somehow gonna’ set a precedent for other property…and I know there’s other vacant property much more close to some other areas, like Strawberry Square, and people are concerned about that. And they are concerned that what you do here will guide you and tell you that you have to do the same thing in another property. Any applicant for permission to use adjacent property will have to do just as we’re doing here: demonstrate to the commission that the proposal is compatible with the surrounding neighborhood. It has never been my experience that staff, this commission, or the council will allow one property or introduce something simple because somebody else has done something down the road. With that, I’ll save time for rebuttal, answer any questions if you have at this point and turn the podium over to Mr. Nickel.

Commissioner Wilson – Thank you.

Shawn Nickel (1589 N. Estancia Pl. Eagle, ID. 83616) – Thank you Madam Chairmen and commissioners, I’m Shawn Nickel, and I’m representing Quasar Group. Commission, soon after your initial denial of the first application or first go-around of this, myself and the Quasar Group went back, we looked at the record, looked at the comments from both the planned zoning commission and the neighbors. We talked with staff and we made the determination that rather than appealing the decision to the city council, we thought it was more important to work with the input that we got from all of you and come back with a re-designed application that best met the concerns and the needs of everybody that specified at that first go-around. That’s what you have in front of you this evening. We did meet with members of the East End Neighborhood Association and a member of the Strawberry Square Neighborhood Group early on. We got a positive feel that we were going in the right direction. We then held a neighborhood meeting on-site in which approximately 10-15 additional neighbors from their area attended. Also got a positive vibe that we were going in the right direction, they were impressed that we did bring the height down a quite bit from the original two requests. With that, we met with staff, we went through the proper application process, got that submitted including, as Ms. Butler indicated, the Comp. Plan amendment, some height exception, conditional use permit, and the PUD. That request for the mixed-use, again we believe it does better justify trying to bring up mixed-use development that is compatible and transitional with surrounding properties, moreso than the C-3 zone would. We corresponded back and forth with some of the neighbors via e-mail, the ones that we met at that first meeting. We provided them with some elevations and different
Commissioner Wilson – Alright. Any questions for staff or applicant at this point? I just wanted to correct one item in your presentation; CH2M Hill no longer occupies that building near the river, we’ve moved to the Idaho Lottery Center about a year ago. Still a couple of engineers who rent that building out.

Shawn Nickel – Oh, that’s right. That building is still occupied, but you are correct.

Commissioner Wilson – Yeah. I’m not there, that’s really the hard part. Any questions for staff or applicant? Alright.
Boise City Planning & Zoning Commission  
Minutes of  
October 16, 2006  
Page 23

David Waldren (80 W. Cutwood Ct, Eagle) – As we left the last hearing, we heard a directive loud and clear which was to go away and make significant changes, and re-apply. And that’s what we’ve tried to do. I was particularly influenced by a diagram that the adjacent neighbors provided. If you may recall, they took our original design and cut the building in half and placed half of it on one end and half where it was. I was kind of struck by that concept and I was influenced with how we should proceed and I think you’ll see that the design that we’re presenting now is very close and massing to that idea. In addition, what we’ve tried to do is to create undulation, variation in heights and we plan as we carry forward with our design work to create a very rich and very interesting streetscape along the street. As Susan mentioned, we reduced the height about 46%, we are now at 30-ft below the building right behind us. I just wanna’ repeat something that we initially began with and that’s the understanding that the general growth philosophy of the Boise-area is to create mixed-use downtown living, small commercial shops. This is the concept that we zeroed in on initially and I’m hoping that you’ll agree with us that we finally have gotten it to a scale that’s very comfortable to the neighbors. This is a view looking north as if you were coming over the bridge, encountering the property for the first time and I think you’ll see that, and this does not represent a final design but we plan to have a lot of articulation with balconies for every unit, a lot of undulation, modulation. Susan mentioned the terrace, it’s about an 8,000 sq. ft. area as an amenity for the project and it’s placed on the west side of the building and I think offers a relief to the office workers in the Washington Plaza building looking out that direction. This is an adaptation to a photograph we took over at Washington Square and we’re pretty close to the centroid of the project and this is a super-imposed design of our project over an actual photograph, so it’s a very accurate depiction of what’s there. I think with that, I’ll stand for questions. We do have a movie…it’s real quick. Susan, do you know how to push the button? (laughs) That’s it.

Commissioner Wilson – Any questions for staff or the applicant at this point?

Commissioner Brunelle – Madam Chair, a question for Susan. We’re talking about a rezone from C-3 to R-O as part of the request and it appears to me that that actually has no affect on setback requirements…that they’re a 20-foot setback, a front setback.

Susan Riggs – Madam Chair, Commissioner Brunelle, that is correct.

Commissioner Wilson – Further questions? Alright, next we will go to the representative from the East End Neighborhood Association.

Deanna Smith, President of the East End Neighborhood Association (1208 E. Jefferson St. Boise, Idaho. 83712) – In general, our neighborhood association has taken a position in support of this proposal. We feel that the applicant has done an admirable job to respond to the concerns, particularly the concerns of height that was presented at the first round of hearings. Our position on the height, we were the ones who pointed out that we thought some height might be allowable, but it should really be viewed as a transitional piece of property, which the applicants
pointed out tonight. We recognize that some people think of this as a part of downtown. We do not, our actual neighborhood boundaries go to Broadway, but we also recognize that immediately to the west this is a heavily commercial area. Therefore, we like the height that they have come up with. It is acceptable to us. It’s an acceptable transition. It makes that comment that we had requested. It is about halfway between what exists to west and what is allowed currently, which is the 45. Along those lines, however, we want to point out two concerns that we have, not with this project, but just we want to be on the record. We do continue to disagree with the City’s position that height should ever be allowed as an exception, and we have stated in our previous testimony and written testimony that we’ve had, we do believe that that decision is inaccurate with the State statutes that address height variance. We think that height should always be dealt with in a variance environment. We also do really want to strongly put on record that, as stated by Joann Butler earlier, the land immediately to the east is 45. It’s an identical zone to this one currently. We would never want to see that go over 45 and that’s why we talk about this as a transition zone. The ground immediately to the east that is yet undeveloped is much closer to the Strawberry Square, Kimberly One, and the park, and we believe should stay at the 45 height for whatever comes forward in front of you to that ground. That said, we do like the changes in zone and Comp. Plan. Actually, it much better fits our yet finalized and not adopted neighborhood plan, but the neighborhood plan process we went through identified six areas within our neighborhood where we would like to see mixed-use with some commercial in this area. Those pieces of ground, frankly, we have identified as an area, we would like to move in that direction. So, we strongly support the reason on it. It is much more appropriate with what we would like to see in that area and we think that what the applicant has purposed, you know, fits well with the transition. It is a unique piece of ground. So with that I would stand for any questions?

Commissioner Wilson – Questions? Alright, thank you. I’m sorry I caught you by surprise. I’m trying to do a better job with having the neighborhood representative follow the applicants.

Deanna Smith – Oh, ok, I’m just used to being on the list.

Commissioner Wilson – Thank you. Alright, so next we will go to the list. The famous list. We will begin with Shawn Nickel. See now you don’t even need to be on the list.

Clayn Sonderegger (1155 N. Black Cat Rd. Meridian, ID 83642) – Madam Chairman, Commissioners, I’m Clayn Sonderegger, I believe that Quasar development has done a great job in combining the new urbanism and mixed-use, and I would encourage a vote of changing the map and also allowing the set back to reduced as a benefit in this transition zone. Thank you.

Commissioner Wilson – Thank you. Terry Christensen?

Terry Christensen – Madam Chairman, Commissioner, I to am in agreement with the other gentleman, that this is a great project. I think it will...
Commissioner Wilson – State your address.

Terry Christensen (1094 E. Covey Run CT. Eagle, ID 83616) - As Commissioner Cooper pointed out earlier, the average household in Boise is shrinking to around two people. I think that this particular project fits that model and helps the traffic count in downtown Boise a little bit, but will also help the economic viability of the community overall. It is a beautiful project. It is a vast improvement over the existing site. I believe it will be a very proud addition to the city of Boise. Thank you.


Rocky Bogert (2105 Warm Springs Ave Boise, ID 83712) – I also am a part of the east end Neighborhood board, and I just wanted to come up and speak to our neighborhood plan and the identification of a neighborhood commercial, servicing both neighborhood and also I believe southeast Boise, and the way I wanted to speak to that was I’ll present a picture.

Commissioner Wilson – For the record we have received an aerial photograph.

Rocky Bogert - The aerial photograph is a store at 17th and Madison in Seattle, Washington. Its dimensions, I believe, would probably fit the footprint of the commercial area, and the reason I brought that forward is that location has a Trader Joe’s located in that building on the first floor, the parking for the Trader Joe’s is on the second floor, which sounds a little bit familiar like this plan, and in discussing with neighbors throughout the east end, any time we have talked about neighborhood-commercial the first words out of most people’s mouth is, “Can we get a Trader Joe’s around here?” So I brought it forward, I gave a copy to the developer, and hopefully he will go to town and get us a Trader Joe’s. Thank you.

Commissioner Wilson – Thank you. Next on the list we have Ray Frechetta?

Ray Frechetta (983 Strawberry Ln. Boise, ID 83712) – Madam Chairman, Commissioners, my name is Ray Frechetta. I am also the President of the Strawberry Square Townhome Association. First off, I would like to commend the developers and the architects for the changes they have made. I think they have made a great stride towards a compatible use in that. As an association, we do not have an issue with the use. We do not have an issue with the proposed change in zoning. In fact, I think the move is right and it probably gives us something to work with when we look at the other property that we are concerned with. We still have an issue with, and it may not be an issue with the building, it’s an issue with the zoning. There isn’t a proper zoning to move the building that he needs on that property on to that. May be we are lacking in the proper zoning to give them the height without an exception, because I don’t think that the arguments put forth necessarily hold water in the future. The takings issue on the setbacks, those takings were done long before this current developer was in position on that. I think that really doesn’t create a hardship. If he had something planned and he came in and took something,
that’s different, but I think that you will find out on State St. that the setbacks from ITD are about 30 ft, and then there’s another setback from that. I think maybe within the zoning of the near downtown area and the downtown you ought to see if we are going to apply new urbanism, we change the zoning that the setbacks on gateways are ignored. We’re concerned with that being applied in other areas. I think we do like the use, the design is getting there. There are a few issues that we would have with access. I think there is the left turn lane without acceleration is asking for trouble along east Parkcenter, and the driveway into the parking garage right after that street behind the property is also a concern, but maybe those should be take up at design review later. I think it is a great move, and it is a big change in the use and that will be greatly appreciated, and I wish them all the luck to get that building done and make a financial success of it. We’re just a little concerned. We would like to see some strong issues brought forward on why this property has exceptions to it. Thank you.

Commissioner Wilson - Thank you. Alright, next we will hear from Thomas Whitworth.

Thomas Whitworth (991 Strawberry Ln. Boise, ID 83712) – Good evening, I have no problem with the re-zoning. I think it is a good idea that we rezone the area. I’m glad they brought the height down. That was our major concern. Looking out now with the wall there, we’re not really going to see the building. I would still like to see it stay within the guidelines of 45 ft, but, you know it is getting closer. My major concern though is the setbacks. There is in the packet it says the setbacks are actually 5-ft for the colonnade, so that’s bringing it even closer in. It’s somewhere in the packet they were bringing the colonnade out to 5-ft. If you look at the picture where our complex is, we have a big wall that blocks us out and there is no green along there at all so, you know, that’s going to bring it into like a little canyon that you run right along in there, so. My major concern is developing the setback by 5-ft. Thanks.

Commissioner Wilson - Thank you. John Knipe?

John Knipe (1000 Strawberry Ln., Boise, ID 83701) – I just wanted to mention again that there are several hundred people that have signed a petition to anything over 45 ft for this sight. I think the number is close to 1,000. That doesn’t seem like a lot compared to, you know, the whole city, but when you consider there’s only a few thousand homes in that area, maybe less than three, that’s a significant amount of people that do oppose anything over 45 ft. Thank you.

Commissioner Wilson – Thank you. That brings me to the end of the sign up sheet. Are there other folks who want to testify this evening that did not sign up? Going, going. Okay. Next we will go to questions from the Commission of staff and the applicant, or if there is anybody else that you have questions of that have provided some testimony.

Commissioner Cooper – Madam Chair, a question for Susan. We have discussed this issue many times before, and I wonder if you would want to take a shot at why changes to the height requirements are exceptions and not variances?
Susan Riggs – Madam Chairman, I’ll turn this over to Scott, he can answer that.

Scott Spjute - Madam Chairman, Commissioner Cooper, we do acknowledge that in the State code in the variance section it does mention height, but our contention is it does not preclude local jurisdictions from creating another way by which to allow for variances or exceptions to height. Normally, when you grant exceptions or variances, they have to do with setbacks, and they’re based on the shape of the property or the size of the property or the way the streets constrain the property or the topography. None of those sorts of things would ever apply to height, and I can’t imagine a scenario where there would be a hardship that would create a need for a greater height. Our zoning ordinance acknowledges that notion, and is restrictive in all of the zones in the height that is allowed. Now the C-3 zone that allows only 45-ft height is our most heavily intense commercial zone. A lot of intensive commercial uses are allowed outright in that zone, and yet you can hardly put a three story commercial building in a 45-ft height, and so the procedure for exceeding the height is not a variance, but this exception that our ordinance contemplates, and it is based on the conditional use criteria primarily, that the increased height not create an adverse impact on surrounding properties and it be compatible with what is there. So, it’s kind of a long stab at trying to answer your question Commissioner Cooper, but that’s basically why the Boise City code allows for increased height through a conditional use rather than a variance procedure.

Commissioner Cooper – Thanks Scott.

Commissioner Wilson - Further questions for staff or the applicant?

Commissioner Brunelle – Madam Chairman, I’ve got a couple of questions that could go to both applicant and to staff. The first one has to do with the variance, and what ties these questions together is there is a story from the applicant, then there is a story from the staff on a couple of these things, and they are not the same story. The applicant claims a hardship, at least in one of their application letters, but it seems to me that really we can grant this more as an exceptional circumstance and, Susan, that’s basically what your staff report concludes, isn’t that correct?

Susan Riggs – Madam Chair, Commissioner Brunelle, that is what my staff report concluded, that it was a unique circumstance in that the perceived distance from the back of the curb is 27 ft on both Park Blvd and Parkcenter Blvd., that it is a new urbanism building that encourages the building being brought out to the street. All these were unique circumstances that made sense to grant the variance. The applicant, I believe, also believes that it is a unique circumstance, but went a step further in believing that there was a hardship in that ACHD had taken some right-of-way that will never be developed. They’re gonna actually, in a license agreement, give that land back to ACHD in a landscape strip, sidewalk, double row of trees, and so forth, but, from my standpoint, it was a unique circumstance. There also, I think the applicant went off on the pathway of fact that the lot is encumbered by streets, by arterial roadways on two sides, a service drive on the west side, and yet another roadway on the north side. I think it’s a service drive.
Commissioner Brunelle – Okay. Second question, Susan, and, again, the applicant can speak to this if they want when they are up for rebuttal. The staff report basically sketches out the story that the need for the land use map change and the rezone is in order to fix a problem that crept up when the in-fill density bonus was repealed, so what we are talking about is creating a work-around for something that the applicant had originally proposed as part of their original proposal that was rejected, the 90-unit condominium. Ms. Butler did point out that there a lot of risks to having a C-3 zone in your neighborhood, but it was driven by the fact that we needed to find some way accommodate that desire for that number for the unit wasn’t it?

Susan Riggs - Madam Commissioner, Commissioner Brunelle. I guess it could appear like that. I think the fact that the Comprehensive Plan really supports the land use map amendment to a mixed-use was really the driving force for this project when we sat down with the applicant and we suggested that they rezone this R-O and we realized that the map called this area out as commercial we were rather surprised. I think the changes that have occurred in the downtown area and on the outside of the downtown core area have driven the need to bring mixed-use closer to downtown. The proximity of this development to the schools, the parks, the commercial services, the downtown, the transit, all made sense. So, it wasn’t necessarily a vehicle just to get this through, but it was the right vehicle in our mind in that this land, as stated by the East End Neighborhood Association, is really targeted for a mixed-use development. Mixed uses would be much more appropriate in the City’s mind for this area than a high intensity C-3 use.

Commissioner Brunelle – I agree with that. It just seems to me that we should have looked at more than just the parcel that was in question. There is a triangular piece to the north, there’s the old Cosmopolitan Bowling Ally piece to the east which abuts the residential homes. I think there is an opportunity being missed here as far as looking at that area where we do have the residential transitioning into that area, and it just would have looked a little nicer if we had kind of done something more hold-and-stick.

Susan Riggs – Madam Commissioner, Commissioner Brunelle. I agree with that, and I that at some point we probably should look at taking that in on the land use map as a mixed-use, however, that application was not before us to move forward on that piece of property, but I agree with you that would be the right transition in this situation.

Commissioner Wilson - Further questions?

Commissioner Ellsworth – Madam Chairman, yes question for Susan. Susan, do we need a hardship to grant a variance? Or can we do it with special circumstance?

Susan Riggs - Madam Chairman, Commissioner Ellsworth. A unique circumstance/special circumstance is the other qualifying factor for approval of a variance.
Commissioner Cooper – Madam Chairman, I have a related question that one of the neighborhood folks brought up. On the site plan here, which has the setback dimensions on it, there is a note that the setback varies from 10-ft to 5-ft at the colonnade, and as I look at the elevations it seems like the building face above aligns with that colonnade, so to me we are actually looking at a 5-ft setback not a 10-ft setback.

Susan Riggs - Are you speaking about this setback here that is 5?

Commissioner Cooper - On Parkcenter Blvd. To the left of the title on Parkcenter Blvd there’s a note. It says that the set back produces from ten to five, right above your finger there.

Susan Riggs - Madam Chairman, I would like to address this to the applicant if you would like to speak to that please.

Speaker - Actually, I need to clarify that because we in our on going design and decisions we’ve made the decision to eliminate that call and aides so it’s the set back will be the 10 ft from the property line to the building.

Commissioner Cooper – And to the building above?

Shawn Nickel - The building above is in line with the strongest line shown on this site plan, which is 10 ft.

Commissioner Wilson – Further questions for staff or applicant? This is your last opportunity before we go to closing comments. Alright, closing comments by staff.

Susan Riggs – No closing comments, thank you.

Commissioner Wilson - And rebuttal by the applicant than.

Joann Butler – Staff and the applicants stories regarding variances I think that, not so much at odds but just compliment one another, in regards to the unusual circumstances and the hardship created. I appreciate the comment created by Commissioner Brunelle about looking at a wider use of the zone and the density in-fill issue. You know, what we found is, in working with staff and trying to come up with the appropriate zone, that without the in-fill density bonus just being available, it caused people to be a lot more rigorous about looking at the zoning ordinance and the comprehensive plan instead of just pulling a 20% out of the air. So I think that was a good thing for this particular area and hopefully, of course we couldn’t make application for other properties in the area, but perhaps I’ll do that or the city will take it upon themselves to look at that in that area as well. Really, that’s it unless the commission has any other questions?

Commissioner Wilson – That will close the public hearing and deliberate towards the decision and just a reminder, commissioners, I will need three separate motions on these. (end of tape 1,
beginning of tape 2) …met without the in-fill density bonus just being available, it caused people
to be a lot more rigorous about looking at the zoning ordinance and the comprehensive plan
instead of just pulling that 20% out of the air, so I think that was a good thing for this particular
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perhaps they’ll do that or the City will take it upon themselves to look at that in that area as well.
Really, that’s it unless the Commission has any other questions.

Commissioner Wilson - That will close the public hearing and we’ll move towards a decision.
Just a reminder, Commissioners, I will need three separate motions on these.

Commissioner Cooper – I’ll start out by making a motion to approve CAR06-41.

Unknown Commissioner – Second.

Commissioner Wilson – A motion and a second; discussion.

Commissioner Cooper – Yes, I think this is probably the easiest decision to make about this
project tonight, particularly the discussion about other parcels in the area really being more
appropriately zoned as a mixed use rather than commercial, and also that particularly for service
commercial which really allows inappropriate uses that this is really the right designation on the
land use map for this site.

Commissioner Wilson – Further comments?

Commissioner Brunelle – I’ll vote for this, I am pretty reluctant on the standpoint that we’re
make a change to the land use map that is dealing with just one applicant, one area, when there
are some adjacent properties that I think need to be looked at as well, and the fact that there was
some creativity, I think, brought to bear to try to deal with the loss of the density bonus by
changing the land use map and then changing the zoning. I think the City Council needs to be
careful on how they deal with that. It might be one where they need to look at bringing back the
density bonus in certain parts of town if they were to prescribe it a little better. That was
repealed for good reasons, especially up on the bench, but maybe in some areas in and close to
downtown we should have a density bonus to deal with that. I’ll let it stand there. We’re just
talking about the land use map.

Commissioner Wilson – Yes, right now we’re just talking about the land use map. Any further
comments on that? Alright, with that I’ll call for a vote. All those in favor?

Commissioners – I.

Commission Wilson – Opposed? Motion carries. We’ll next take up the rezone.

Commissioner Cooper – Madam Chair, I’ll move for approval of CAR06-42.
Unknown Commissioner – Second.

Commission Wilson – We have motion and a second; discussion.

Commission Brunelle – Madam Chair, I think that the motivation on this rezone fulfills a number of things specific to this project. It doesn’t change the set back question, and so the variance that we have to deal with, we’ll deal with that here in a coming vote, so it really didn’t change the baseline condition out there. The change in the zone will allow the additional dwelling units for that property, and it’s in a location where the transportation impacts of those additional units, I think, are well within the ability of the transportation system to handle. The applicant did point out that there are a number of allowed uses either through permit or through conditional use in a C3 zone that will no longer be allowed under this RO zone, and those are all good reasons to support this change in the zone.

Commission Wilson – Further comments?

Commissioner Cooper – I have a comment similar to what I mentioned in my motion earlier. I think that the change from service/commercial to RO will be of much greater benefit to the neighborhood and not just a site, but to have the combination of higher density residential and neighborhood commercial.

Commission Wilson – Thank you. Further discussion? Alright, all of those in favor of the motion?

Commissioners – I.

Commission Wilson – Opposed? Motion carries. Finally, on to the conditional use and the variance.

Commissioner Brunelle - Madam Chair, I’ll move approval of CUP06-56 and CVA06-23.

Commissioner Cooper - Second.

Commission Wilson – I have a motion and a second; discussion.

Commissioner Brunelle – Let me make a few comments. One, when I looked at the height on this I approached it from a question of what is compatible and what are we required to look at on a height exemption under the City ordinance. I didn’t look at it from a standpoint of the applicant has been here before, they purposed something, now they are back which shows that they are compromising, because that’s not a basis for us to say that something like this is compatible. I looked at it from the standpoint of what fits, and I think what I’m looking at tonight fits. It transitions from that less than attractive building that sits out there at the east end
of the WGI campus, and it actually fulfills one of the wishes I made in a comment at a previous meeting that you try to hide that to the extent you can, so thank you. But, I think it did need to step down a little bit, and so for that reason I’m comfortable with granting a height exemption for what we were presented. As it pertains to the variance, I hang my hat on what Susan presented that this is an exceptional circumstance because of the right-of-way that was purchased by ACHD. I don’t think we need to reach the question of whether this is a hardship or not, because I think we’ve shown that there is an exceptional circumstance.

Commission Wilson – Further discussion?

Commissioner Cooper – I will make a couple of comments. I agree, we deal with and grant tight exceptions often, and we often have this same discussion, and I appreciate Scott’s comments about the fact that we are forcing our own local ordinance, which covers it in this fashion, and I think that the project is now successful in transitioning from the 110 foot WGI building, and I appreciate the comment from the neighbor that said that at least he could no longer see the top of the project from over that wall. Whether you call it a hardship or a special circumstance about the variance, I work in this business also and I’ve been involved with projects where the amount of right-of-way taken by ACHD has caused projects to fail, and so I do believe that that can be considered a hardship. But, the comment about giving the landscape strip back is not really true because it was never yours to start with, it’s always been ACHD’s. About the design of the building, I really think it is much better now that the horizontal proportions. I guess the parking has always been hidden in the back, and I’ve always appreciated that, and I guess finally I would say about the set back, even if it was only 5-ft. I still would be in support. I really believe that buildings are much better brought up to the street, particularly ones that have these kinds of neighborhood-related uses at the ground floor.

Commission Wilson – Thank you. Further discussion? Alright, all those in favor of the motion vote I.

Commissioners – I.

Commission Wilson – Opposed? Motion carries. At this point, I would like to take a five-minute break, and then we will get back together and hear the final few items.

**CAR06-00053 / COSTA PACIFIC COMMUNITIES**
Location: 10230 W. Franklin Road
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 42.28 ACRES FROM INDUSTRIAL USE DESIGNATION TO MIXED-USE DESIGNATION ON THE LAND USE MAP

**CAR06-00054 / COSTA PACIFIC COMMUNITIES**
Location: 10230 W. Franklin Road
REQUESTS APPROVAL FOR A REZONE OF 42.28 ACRES FROM M1-D TO R-3D
Lance Evans presented staff report with a recommendation of approval.

Commission Wilson – Thank you. Any questions for staff? Let’s hear presentation by the applicant.

Rudy Kadlub – CEO of Costa Pacific Communities – 28801 southwest 110th Ave. Pleasantville, Oregon 97070 – I have with me tonight two of my associates; Associate Vice President, Dan Hoyt, in charge of entitlements; and Christina Skellenger, Development Associate, is also with me here tonight, and I have her to thank for our PowerPoint. If you will allow me to just take a moment or two to share with you a little bit about Costa Pacific Communities, what we do, and what we have done. We are not here to just shallow discussion of new urban development, we are actually the co-developers of Orenco Station, which is probably the preeminent of transit-oriented pedestrian-friendly mixed use community in the country. It has been awarded many national and international awards. It is on the west side light rail in Hillsboro, Oregon. The community has 1,834 homes in it on 148 acres of residential mixed use. The community is, right here you will see 198 acres. The light rail is to the south. The community has a diversity of uses. There is 22 different residential product types including single-family detached townhouse, row homes, condominium flats, flats over retail, townhouse over retail, apartment homes, and mixed use residential, retail, and office. We are also developing right now another transit-oriented development in Wilsonville. This is a 2,700 home mixed-unit, mixed-use community which is at the terminus of the future commuter rail line in Wilsonville, just a mile west of I-5. We have worked closely with the City, with Tri-Met, and the region to help secure a full-funding grant agreement for a commuter rail line. It has already won national awards for the best on the board site plan. I have to tell you that when we first started planning Orenco Station in 1995, we did not even know what new urbanism was and now we are one, and we are fully committed to it and believe in it because of what our home owners and users of the community say; that their lives are actually better for living there. Twenty-two percent of the people who live in Orenco Station use light rail on a daily basis, and the community is 16 miles west of downtown Portland. Villebois’ site plan, this, again, shows a number of uses. The different colors represent different land uses on the site. There is 160 acres of very sensitive environmental area that is incorporated into the community, yet we maintain a density of 12 units per net developable acre. You can see that the land uses are interspersed and this community is surrounded by green space and open space. It is actually at the edge of the urban growth boundary, and it follows the concept of the construct where the lower densities are at the edges of the community where they interface with the green space, and they get denser as they move towards the center of the neighborhood, and the three neighborhoods in this community where they overlap is the village center where 1,000 people will live on 40 acres in that location. These are some of the types of homes that our home building division builds. They are condominiums, row homes, single family detached homes (as in Orenco Station), and single family detached homes overlooking a park. You cannot see in this photo, nor can you walking through Orenco Station find garages, they are all tucked behind so that the community is truly a pedestrian-friendly community. These are future row homes that will be in our Villebois community. I might add that we are currently building two transit-
oriented developments on the Folsom light rail line in Sacramento. These are townhomes over condominium flats in Villebois. Now, you already know the regional context for this site at Franklin and Five Mile is in proximity to the freeway. Obviously, it is only five miles from downtown, but the site is really an in-fill site, 42 acres. You can see there is very little vacant land around it. The site has been farmed. It was farmed this last summer, and has been farmed for as long as this area has been settled. The seller of this property feels that now is the right time to see this developed into a mixed-use community. The concept plan, as Lance explained, is a mix of uses. This is a little more conceptual than we would like to see it. Our plans generally have more integration of the uses, so we had to show sort of hard lines here, but actually townhouse, row homes, and single family homes will be more integrated than this site plan actually shows. In the future, we will be back with you for another zone change on the west side that will detail the retail office and residential mixed use on the western most 11 acres. So, as Lance said, there are number of things in which it complies to your long-term goals. It is transit-ready, and we will work with the City and the region to help lobby for a future commuter rail line on the rail line to the north. It will be pedestrian-oriented. It is a good transition from the industrial around it to the residential to the south. Lance mentioned the buffers that exist. There is a mix of housing types for several income levels, and the local retail shops will allow people to walk to a quart of milk as opposed to use a gallon of gas to get a gallon of milk. This is a fly over of Villebois. You can see I-5 here running though the middle of the site just north of the Willamette river, what you’re going to see is the central core of Villebois, which is a 500-acre site. What you see as we fly into this is a 40-acre site, about the same size as the property at Franklin and Five Mile, with a little more density than Franklin and Five Mile have, but you can see the attention to detail there. Again, you won’t see any garages in any of these pictures; they are all tucked behind. The sidewalks are very pedestrian-friendly wide sidewalks. Front porches that look onto the sidewalks and face on another. As you get closer to the village center, the densities increase as they should, as they get nearer the mixed-use. On the left here is a mixed-use building with retail at the ground floor, restaurants, and housing above. These are all organized around a plaza. Again, this is a much large project in context; Villebois will have 7,000 people living there at its completion, so the plaza is very important for the use as a living room for the size, a gathering place. Here it shows a Saturday market that could be taking place as any number or uses that are programmed to make this place socially sustainable, as well as economically and environmentally sustainable. We have received a number of orders already for this project for pre-preservation and for incorporating housing for people with illnesses. We also are developing, with help from the EPA, a million-dollar appropriation from congress, the most resolute rain-water-management program known in the United States at this point. I would be happy to answer any questions at this time, or come back.

Commissioner Ellsworth – I’ve got a question for the applicant. How do you propose to protect the future homeowners from the existing M-1 zone that surrounds part of this 40 acres?

Rudy Kadlub – As you can see, I think on this map here, there is a 200 foot buffer that runs along the north end of the site that is the rail line. The rail line runs right down the middle of that, so there is a 100-foot buffer along that edge. To the south primarily is the Ridenbaugh
canal that runs for most of the length of the project that is a buffer from Franklin road. The only intense part of the plan which we want some visibility will along Franklin and Five Mile, and the residential will be buffered by parking structures and office and retail buildings at the edges of those two streets. So, the retail is here, here is the Ridenbaugh canal which buffers all of the residential to the south, and then the rail line buffers from the north, and the retail will buffer from the west.

Commissioner Ellsworth – Thank you.

Commission Wilson – Anymore questions for staff or applicant? Okay. Thank you. We’ll move to the sign up sheet. The first person on the sign up sheet is Edward Kerpa.

Edward Kerpa (88 Lotterell Dr. Boise, ID. 83709) - Right across the street in Boise. I do have one concern here and that is the noise factor, and I think Chairman Ellsworth touched on that perhaps. It is extremely noisy here, and I am very concerned with the traffic patterns through here and the extra traffic though here, as well as the railway on the other side that perhaps there won’t be that much of a buffer for the people even though there is 100-ft, and that is more of a concern for you, I suppose, than myself. I also had some questions on any height restrictions for the condos or the retail that are being purposed at the corner.

Commission Wilson – Thank you. Lance, could you address his question about any changes in the height that would result from this application?

Lance Evans – The R-3 zone had a limit of 45-ft.

Commission Wilson – Compared to the zoning that it is currently?

Lance Evans – The M-1 I think is 45 as well.

Commission Wilson – Okay. Thank you. Alright, next on the sign up list we have Ronald Van Auker.

Ronald Van Auker Jr. (3084 E. Lanark St. Meridian, ID. 83642) – Good evening Madam Chairman, members of the Commission. We currently have ownership of the property directly north. It is the old Eddie’s Bread Bakery. We have a couple concerns on changing the Comp Plan to a mixed-use, and also changing the zoning from M-1D to R-3D as proposed. Industrial use can produce smells, traffic, and also noise. I think a mixed-used development of this magnitude could possibly make the homeowners reluctant to purchase the units purposed. Also, we have noted in the past that from developing industrial properties that residential and industrial uses normally do not mix very well. We have been adamantly opposed at City Council many times and Commission meetings. The third thing is the railroad proximity. As you note, the railroad is directly north of this property. This would be a perfect industrial use. Over the past couple of years we’ve had a significant increase in demand for rail-served industrial property,
and I think this project would be much better served by industrial use. Normally, we don’t like to come up and oppose projects, we like to promote growth in the cities and the communities that we do business in, and we have a very significant, not opinion, but for lack of better words preserving industrial property within the city of Boise, and I think this would be a great one to preserve. Thank you.

Commission Wilson – Thank you. Next I have Ralph Mellin.

Lance Evans – Madam Chair, I just looked it up, and the height limit on an M-1 is 55-ft.

Commission Wilson – Okay.

Ralph Mellin (reside 4500 N. Tumbleweed Lane, Boise, Idaho 83713).

Commission Wilson – For the record, I have received a series of photographs from Mr. Mellin.

Ralph Mellin – They are in essence all the same, so one for each. I believe this property has been in the family for decades. It is probably, as representative of Costa Pacific indicated it is one of the last major open properties in the west side of town. I would propose that it’s probably the premier large open land that is still left on the west side of Boise that is still within the city of Boise and the city of Boise impact area on the west end. A lot of people are going further west. Of course, you’ve got people now over into the Meridian area’s Crossroads center and so forth. Now the mayor here about two years ago encouraged me to start looking at what to do with this property when he brought into the City, and at that time I did have a planner that came in, and we requested to, before this group in fact, that we have 15 acres be set aside as commercial with the remainder to be M-1, and then we took that also before the City Council, and in essence, the response was “Well, come to us with a plan and we’ll take another look at that.” So anyway, I have been honored here to be approached by Costa Pacific. I was on the road to doing some things myself with this area as a response to the mayor and some of the demands to start development and do some in-fill, but I’ve been lucky to have Mr. Kadlub come in. He has a real good history in this area. Started out at River Run in east Boise and did a premier development there about 10 to 15 years ago, and so he invited me over to see what they did over there in Portland at the Orenco Station, and I was very impressed and started relenting in my thought do this myself. I think I’ve got a very good team member on my group, or maybe now he’s got a team member of me on his group, but anyway, if this thing falls through or if he runs away, I guess I could go look down at Las Vegas or maybe Phoenix and probably maybe find someone equal to him, but it sure appears that he’s got a good project. The alternative of not going this way would be back to the M-1, which would be similar to what we have west on Emerald and Executive west of Five Mile road probably would be a significant amount of outdoor open storage. Perhaps we could help diminish that with a little pressure on me to have someone that covered, but still with the M-1 that is probably what would be there. In fact, I’ve had some strong encouragement, buyers that were looking at smaller parcels, and I was looking at going ahead that way. It looks like my three minutes is up. I guess about the only thing I would add is
that we have a tremendous traffic count in that area. We’ve got about 19,000 cars on each of those roads, making about 38,000 total, which is very similar to the traffic on Eagle road and Fairview, so I guess in summing it up I would support what is being brought before you. Thank you.

Commission Wilson – Kerry and Jeri Troutner.

Jeri Troutner (9830 Stardust Dr. Boise, ID. 83709)- Good evening Madam Chair, Commissioners. We got the notification about the events taking place this evening. I did talk to a couple of the neighbors. Stardust drive runs along the rim just above Franklin, and so we will be looking down onto this property. We currently live, as has been told, in an area where this property is bordered by light industrial, single-story, two-story, and some three-story down on the other side of the tracks. We all know that, those of us that live in that area, know that the geese that we get to see land on that field and the hawks that we see circling that field are going to disappear. If that would have bothered us that much, we would have bought the property quite some time ago. We all know that change is inevitable in that area, after speaking to the developer and the owners of the property a lot of our concerns have been allayed. I would much rather look down on this planned community. I did go to their web site, the Costa Pacific Community web site and took a hard look at what they had done, and then not trusting just that, went to the Hillsboro, Oregon web site, went to their planning and development site, and then looked up what actually has taken place there from their satellite photos and was very pleased to see what I did. I think too often in this area we get people in here that say they are going to do something and it ends up that its not, and to me it doesn’t appear that that’s what is taking place. I do have the noise concern. I think that no matter what goes in there is going to make noise anyway. My other concern is it was my understanding there was going be access to this property off of Franklin. Currently Franklin road, as those of us that know, live in that area, is very well-traveled. It was my understanding that we’ve actually exceeded the recommended traffic amount on Five Mile already by about 1,000 cars. So obviously, if we dump in housing units in there, yeah some people will stay in their community to go get a quart of milk, but quite frankly Albertson’s is a mile away, and a lot of people that may be living in here won’t necessarily be shopping in that community. So, that’s all I had. Thank you.

Commission Wilson – Thank you. Does Kerry want to make comments as well? Okay. Is there anyone else present who would like to provide testimony? That wraps it up for the sign up sheet. Okay, Commissioners questions for staff and the applicant?

Commissioner Brunelle – Madam Chair, I have a question for Lance. Lance, do you have the land use map for the City, and what I’m interested in just getting a overview, not of the parcel itself, but put in the larger context cause I know we’ve had this strip of industrial land that runs along the railroad. Maybe you could walk us through that.

Lance Evans – Okay, so this area obviously the blue is the industrial. The site is right here with the canal to the south, with a smaller parcel there. Down here obviously is low density to
medium density. To the north of the industrial we have, again, more low density and then the commercial corridor along Fairview. The mixed-use node down here is the mall with the adjacent retail here south of Franklin.

Commissioner Brunelle – Then as we move east there is more industrial there I think?

Lance Evans – Yes, it just continues with more industrial, just only a little bit further actually.

Commissioner Brunelle – Well further east, I’m talking about ones who are down towards Orchard mixed-use.

Lance Evans – Oh.

Commissioner Brunelle – I’m just trying to see what the context is where we have the additional industrial land.

Lance Evans – Okay, along Orchard there is mixed use adjacent to Orchard, and then the industrial areas back in behind with the tank farm in that area.

Commissioner Brunelle – Okay. That makes sense.

Commission Wilson – For the record, I have just received some color copies of the Boise Internet map showing the current planning areas.

Commissioner Cooper – Madam Chair. I just, for the record, I wanted to get on that I had handed out to you previously the two letters with concerns and opposition from Arnold Van Auker and Michael Simplot.

Commission Wilson – Oh thank you. I should have made a note of that.

Commission Cooper – I should have too.

Commission Wilson – Thank you.

Commission ________ - Question for Lance in relation to that. I thought I saw in the staff report, now I’m not even sure it was in the staff report, but something about the City recently requiring some number of acreage of industrial land. We’ve had discussions recently about preserving industrial land in the City, and I wonder did I see that and is that true?

Lance Evans – We did, for the staff report, a little bit of analysis of vacant acres of industrial land. In 2003, there was 2,531 acres of vacant industrial. These numbers are approximate, but pretty accurate. One hundred sixty-seven acres have been developed since then. We still have 2,364. In addition, we are annexing with Micron and that area of town a lot industrial land to the
south there, so as the City is expanding we are actually gaining more industrial land possibilities.

Commissioner ________ - Do you know if that 167 acres that has been developed was developed as industrial land or just developed period?

Lance Evans – I could only say just developed period. Gone from vacant to developed. I didn’t go into and analyze what happened to each one of those acres.

Commission Wilson – Further questions?

Commissioner Ellsworth – If we approve this proposal, do you see some of the rest of this M-1 land transitioning to other uses, or do you see this being kind of a protected island of M-1 use within the City.

Lance Evans – I think staff’s position would be that this is detached enough from the remainder of the industrial with the tracks to the north, the arterioles and the residential to the south that it is still pretty isolated. Directly across Five Mile to the west is Idaho Power’s storage area, a lot of power lines and such. It is a very industrial area. Maybe that could be developed in the future I don’t know, but there still is a fair amount of industrial in other locations spread out, and I can’t see this being a contagious thing that’s going to spread.

Commission Wilson – Further questions?

Commissioner Brunelle – Lance, Mr. VanAcker raised a concern regarding an adjacent land owner and they want to keep their options open obviously for different industrial uses, and he does raise a pretty good point I think of rezone this it becomes high-density, mixed-use residential, and the next thing you know is a very years down the road VanAcker is in with a proposal and neighbors are up in arms. I don’t know that the answer is to that, I mean they come knowing that around them is industrial, so I guess the applicant tonight is coming in with eyes open on that. Is there an answer to his concerns and how we would address that?

Lance Evans – I really believe that the Union Pacific rail to the north really denounced that, in addition to the development that has already taken place to the north. I mean there are existing structures there. Whether we get a more intensive use than what’s existing and transition into something that’s going to have more of an impact, it’s going to cross over and be an impact to the south across that 200-ft of right-of-way. As a planner I have a hard time seeing that that would be a huge impact. It is going to be a concern and something that needs to be looked at, but it is also quite clear what’s there already. I guess I look at it like it’s not like a residential development that just ends and there is vacant land next to it where someone might say that’s going to be a park or a golf course someday. This is clearly industrial land and that’s clearly a rail corridor. I think that personally that will be a difficult stretch to make.
Commission Wilson – Further questions? I’ve got a question for Lance. I used to live in west Boise and I’ve dealt with that intersection a lot in my car. I’ve spent a lot of time at that intersection in my car, and I just wonder if you could address the traffic issues a little bit and the implications of going residential in this area verses remaining industrial?

Lance Evans – Madam Chair, I believe that there would be, well I guess I’ll say that in the five-year work program ACHD is planning to expand those roads and intersection. It will go from the current seven and three east/west lanes at that intersection, and three going north/south to I believe its nine and seven. That seems high. It’ll be nine east/west with turn lanes and through lanes. That intersection is going to go through a lot of changes to deal with all the traffic, and that is in the program already and going forward to address that.

Commission Wilson – Any other questions?

Commissioner Ellsworth - It seems like I’ve seen a map, maybe it’s a compass map that shows future transportation nodes for planning. Are you familiar with that?

Lance Evans – I’m not per say.

Commission Wilson – We thought last week, didn’t we see that?

Commission Ellsworth – I didn’t see it last week, but I’ve seen it before and they’ve planned out future transportation nodes. This is one of those transportation nodes that are identified on a compass map.

Lance Evans – Madam Chairman, Commissioner Ellsworth would this be part of the blueprint for new growth?

Commissioner Ellsworth – Yeah.

Lance Evans – I don’t know for sure. I would have to check. Our resident expert has stepped out apparently.

Commission Wilson – Sir, do you have the answer to that?

Ralph Mellin – I do have a map showing ACHD capitol improvements 2007 update. It shows a five lane for Five Mile road, and I expect the right-of-way purchasers to be on my doorstep this next year to change Five Mile from a three lane to a five lane with probably seven lanes on the intersection, and then beyond the five-year plan Franklin road in this area is currently a five lane. That is programmed, believe it or not, to go to seven lanes, and perhaps at the intersection maybe nine.

Commission Wilson - Thank you. For the record, I have received from Mr. Mellin the ACHD
Capitol Improvements Pan 2007 update map.

Lance Evans – Madam Chair, just in conferring with fellow staff members, there is no adopted plan yet that has those nodes in there as such. There is a rail transit corridor analysis that is just getting underway. They will be looking at that rail line and what should happen where.

Commission Wilson – Further questions? Alright, well with that we will move towards closing comments with staff.

Lance Evans – I have nothing further to add.

Commission Wilson – Any rebuttal by the applicant?

Rudy Kadlub (Costa Pacific Communities) – I wanted comment that in the staff report that staff obviously understands the connection between transit land use and air quality, and from previous applications tonight, it appears that the planning commission also understands that and understands what the alternatives are if we don’t make that track connection. I was disarmed by Mr. Mellin suggesting that he would go to Phoenix or Las Vegas to find a developer that would do this. I don’t believe those are cities that are exemplary of mixed-use in higher density or pedestrian-friendly cities, that is clearly not what we are about. As far as housing being near jobs and industrial, that’s the point. The point is if we’re going to reduce vehicle miles traveled, you put jobs and housing together. If people can walk to their jobs, if they can ride a bicycle to their jobs, if they can take alternative modes of transportation or transit to their jobs, you reduce the amount of vehicle miles traveled. That’s the land-use transportation and air quality connection that this city and this region have missed until just recently. So we think that we are part of the solution, not part of the problem here. Thank you.

Commissioner Wilson – Thank you. That concludes the public hearing portion and now the commission may deliberate towards a decision.

Commissioner Brunelle – Madam Chair?

Commissioner Wilson – Mr. Brunelle?

Commissioner Brunelle – I’d like to move we approve CAR06-53 and CAR06-54.

Commissioner Wilson – Actually, I’ll need those in separate motions. So, let’s do the one…

Commissioner Brunelle – Okay, let’s do 53. That’s the uh…

Commissioner Wilson – Comp Plan?

Commissioner Brunelle – A planned land-use map designation.
Commissioner – Second.

Commissioner Wilson – We have a motion and a second. Discussion.

Commissioner Brunelle – Even though most people have left, this is probably the most significant thing we’re gonna’ do tonight because we’re going to do an approving this if we do, is take a hard turn in some of our land-use designation and existing zoning in the direction of where things are supposed to be headed under this blueprint for good growth that we’ve all ready about in the paper. And I’ve sat in on a few of those meetings, steering committee, and there were discussions about the need for reigning high-density residential near transportation corridors whether that would be Chinden boulevard or, in this case, the railline in Franklin. And, uh…it was all kind of in the concept level and some people say “well, yeah…it’s a nice idea but we’ll never see it happen.” And boom…here we have the first one and coming from an applicant who appears to have a pretty progressive track-record and is working obviously in the Portland area where they have been on the cutting edge of a lot of this land-use and transportation planning. Umm…this is clearly what, when I was pitching that question to Cody earlier in tonight out in the previous land-use change, this is what I had in mind. Where you see the change in the land-use designation that has some specific public welfare and public interest in mind because we are looking at putting people close to (what should be in the future) our fixed rail-transit area.

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Mr. Cooper.

Commissioner Cooper – I’m gonna’ support the motion. I’m very familiar with Orenco Station, I’ve visited many times as it’s been built up and I am surprised and pleased to see this developer getting interested in our town. Umm…and one of the things that I’ve looked at very carefully is the seamless integration with rail-based transit. And I’m hanging behind this project, but I just want to comment that I think that Boise, Idaho is probably a bit further out on having rail-based transit to attach to there. But if we get more projects like this, it’s just gonna’ happen that much faster. If I make one suggestion, and I know this plan’s not developed at all, but I’d like to see a more direct correction for people that don’t live in this development but can cross it easily to get to that transit.

Commissioner Wilson – Any further comments on the comp-plan map amendment? Alright, all of those in favor of the motion vote “I.”

Commissioners – “I.”

Commissioner Wilson – Motion carries. Next, I’ll take up a motion for the rezone.
Commissioner Brunelle – Hey, uh…Madam Chairmen, I’ll move approval of CAR06-54.

Commissioner – Second.

Commissioner Wilson – Discussion?

Commissioner Brunelle – Okay, what we’re gonna’ do here is vote on a change from M-1 light-industrial to R-3D/DA.

Commissioner Wilson – Including the development agreement, correct?

Commissioner Brunelle – Including the high-density residential with design-review and a development agreement.

Commissioner Wilson – Correct.

Commissioner Brunelle – This is a large area; it’s 42 acres. R-3D allows up to some 40-units per-acre, so conceptually you can see somewhere in the range of 1,500-1,800 units. I don’t know what the plans are on this specifically, but we are talking about something that I think we probably didn’t get a lot of information from the Highway District on potential transportation impacts of this change in the zoning. But I support the change in the zoning because of what the concept is behind the proposal. And it is going to put (I think on the city and on the valley) it’s going to raise the bar on us to try and achieve what Commissioner Cooper was just talking about as far the improvement in our transit. Both on rail, and whether it’s on the roadways. But again, I know that the newspaper talked a lot about Quasar, but I kind of think this is the biggest deal we’re doing tonight.

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Mr. Ellsworth?

Commissioner Ellsworth – Yeah, I concur with both Commissioners and their comments…in that, umm…I guess I’ve looked at this area and seen it come before Boise City with different applications. People trying to sort of chew away at the M1 property and go to C or C2 or C3. We’ve been reluctant to do that and the reason is because I think, as a commission, we felt it’s important to have M-1 grounds in the heart of a city because it does allow people to live close to where they work. It’s very important to the fabric of the city, and here we are taking a fairly large parcel out of M-1. So I’m a little bit torn but I think, as Andy mentioned, it just is one of those bigger-picture parcels and things that we’re doing tonight that is really going to create a benefit for the city in terms of creating high-density, umm…a lot high-density housing close and potentially on a rail corridor. Maybe the applicant knows something we don’t know, but if this word gets out and other people come forward with these types of proposals then, as you said, maybe we’ll see the rail come faster than people think. So, it’s a great idea.
Commissioner Wilson – Thank you.  Further discussion?

Commissioner Orman – I’m willing to vote in favor of the project.  I think that high-density is a good thing, especially if we did get the rail service there. Having said that, I’m a little concerned ‘cause this is industrial, it is in a rail-line, and it’s surrounded by industrial and logically it would become industrial at some point in the future.  Umm…but I do see the need for high-density in this area.

Commissioner Wilson – Thank you.  Umm…I’m also a little bit torn on this application.  Some more to Commissioner Ellsworth because I’ve been one of the commissioners who sat up here and said, “no, we need to protect our industrial.  We need to be able to build things within’ the city limits.”  And, umm…I’m also a little bit concerned with this corner because there is so much industrial here already.  And, uh…but I have also sat through some of those “Blueprint For Good Growth” meetings and know that we need to get the rooftops as close to the transit areas as we can in order to bring the transit along.  So, even though I’ve had mixed-feelings about it and I’m sure I’m not going to be needing to vote in this, I would support it because I think that this particular island is buffered enough by the canal, and the rail-line, and then Five Mile road that it makes it okay.  Without those kinds of boundaries, I would not be supportive of changing this to a residential-use from an industrial-use.  And I think that the fact that it has those boundaries makes it a special enough circumstance that it’s not gonna’ cause a cascade affect of turning over the industrial that’s around it.  I think that it’s isolated enough that we can make a special circumstance that this be a high-density residential and that we bring this new product that we really haven’t seen in Boise before to this area.  We don’t have very many parcels in town that are this large that we could do a special project like this with, and so I’m pretty excited to see what the results are going to be and I don’t think this sets a precedent for changing over the industrial around it.  Was there any other discussion?  Alright, all those in favor vote “I.”

Commissioners – “I.”
Commissioner Wilson – Opposed?  Motion carries.

**CAR06-00060 / BOISE CITY**
Location: 6551 W. Desert Avenue
REQUESTS APPROVAL FOR ANNEXATION OF 782 ACRES WITH ZONING DESIGNATIONS OF R-1A AND M-1D AND APPROVAL FOR A REZONE OF 20 ACRES A-1 TO M-1D.

**CAR06-00061 / BOISE CITY**
Location: 6551 W. Desert Avenue
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 668 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO INDUSTRIAL LAND USE MAP.
Angie Brosious presented the staff report with recommendation for approval.

Commissioner Wilson- Alright, we essentially have two remaining items ahead of us. One is items 10 and 11 for the Pleasant Valley south and the others are 12 and 13 that are being brought forth by Boise City. We’re going to need to take up the 12 and 13 first ‘cause they sort-of set the stage for 10 and 11. So we’re gonna’ skip ahead to item number 12 which is CAR06-60 from Boise City. Location is 6551. W. Vista Avenue. This is a request for approval of annexation of 782 acres with a zoning designation of single-family residential and limited industrial with design review overlay and approval for rezone of 20 acres from open land. Again, to limited industrial with designer design review. Along with that, we’ll be hearing about CAR06-61 which is a request for approval of a comp-plan map amendment to change 668 acres from airport conservation area-designation to industrial land-use map. So, with that, we’ll go to staff’s report.

Angie Brosious – Good evening, Madam Chair and Commissioners. Before I start, I would just like to point out that I did receive comments today from Mr. and Mrs. Michael Henry that were presented to you at the work session. I’d like to get that on the record.

Commissioner Wilson – Thank you. Any questions for staff at this point? Alright, since the City of Boise is also the applicant I guess we have already taken care of that. We do have a couple of folks on the signup sheet. First, Kate Lankford.

Kate Lankford (954 W. Jefferson. Boise, ID. 83720)– Good evening, Madam Chairmen and members of the commission. I represent the Idaho Department Of Lands. Just a couple of things to reiterate what staff has already said…we do have land board approval for these requests this evening and support of them as well as department approval and would like to also extend a thank you to Boise City staff for their help and assistance in these requests. Thank you.

Commissioner Wilson – Thank you. Brian Reynolds.

Bryan Reynolds (5042 Umatilla Ave. Boise, ID. 83709) – Madam Chairmen and Commissioners, thank you. I appreciate staff and the work that they’ve done on this and I don’t disagree with most of it but I’m hoping we can tweak just a little bit of it to make it more palatable for the folks at Indian Lakes. Specifically, the L-shaped portion there…kitty-corner to Desert Ave. and Umatilla and I don’t know if staff could point that out, please.

Commissioner Wilson – There’s Umatilla and Desert…

Bryan Reynolds – Yeah, the L-Shape that’s kitty-corner there. Yes. That one is slated for designation for light-industrial and I don’t think light-industrial is compatible with the surrounding land-uses. Particularly, you’ll have residential designation on that 80-86-acre piece and you’ve got residential there at Desert and Umatilla. And I would like to ask for an amendment to amend that to A1 and leave that as open space. That’ll provide a buffer between the other light-industrial lands. I also don’t think it will unduly impact the state, penalize the
state in any way for all the other state land there will continue to have other zoning uses. And that L-shape land living there in that neighborhood, that gets a lot of use as open land right now by the general public. They come and drive there to the end of desert and there’s a lot of walkers there, there’s bicyclists, there’s people strolling their children there, there’s trails and roads in there and I would hope that you would consider leaving that as open land as a buffer. Also, from what I’ve seen of the plans, that L-shape piece will not touch the Overland…excuse me, the Orchard extension or the Lake Hazel extension so it kind of sits there off by itself. Thank you. Any questions on that? Thank you.

Commissioner Wilson – Thank you. That’s it for the signup sheet. Is there anyone who didn’t sign up who wants to testify? Okay, please state your name and address and then also sign in on the sheet up there and then you can give that to me at the end. There’s a little pad; oh…did somebody make off with the pad?

Jackie Bond (6964 W. Amity. Boise, ID. 83709) – I’m not prepared tonight in a sense that, last week, I read an article in the newspaper (which maybe you did) that said that 1,800 homes could sprout. I was shocked by this article and though “wait a second, there’s no city here. How can we build all these houses and why is the city involved when I live in the county and all this area is the county?” So I went down and talked with this lady over here who was very kind and gave me lots of pictures and lots of maps, and I went home and studied them. I do believe you told me you would be putting markers out after I talked with you, and I drove today up and down looking for markers so that I could compare it to my maps. I wish you guys would have had a picture of this, which I pulled off the Internet today. What this shows, and I could give it to you if you wanted, basically my concern is that this is Indian Lakes Golf Course. This area around here is residential and will probably be annexed, as I, as one point which…it’s a residential area. This is airport influence and, of course, none of this area over here because of the airport influence, the actual runway which is right here by Pleasant Valley, over here…but all of this area right here is an area which I know very, very well in my heart. I think it was Commissioner Brunelle who said, “development outside of the city contributes to urban sprawl.” And if the city annexes this state land then what it does is opens up the floodgates for this entire picture...which is nothing but _____, farm land and beautiful open space (maybe not to some people). It’s an area I know well ‘cause I’ve probably ridden every inch of it on my horse. My concern is that this piece of state land, which is not even really the city yet, would then allow these developers— which I just learned today have also bought the very end here, and it’s like suddenly this only area which they’re calling “reserved” because it’s the best for last. I think of it as not a “reserve” but it’s a refuge that is there. I was shocked that this was all happening, but I wonder what kind of impact has been done in terms of birds of prey. There’s tons of people out there, tons of animals and stuff as I arrive out there…rabbits, everything, all kinds of animals. So, I guess I just wanna’ say I don’t know how this happened so fast and how, all of a sudden, we can open up the floodgates for urban sprawl but it’s like…the city started to move out and then it just kind of went “oh, we’ll just side-skip all of this area here in-between that and we will then just grow outside there.” So I just wanna’ appeal to your…man! Can we look at this before we make a decision? Look how many people are here. People in my community don’t know about
it. They knew about the airport annexation and I have a list of probably 85 people who came to
that meeting. We don’t know about this and there are no signs out there and there’s nothing that
tells me except…I got to read the article. So I wanna’ appeal to delay this decision so we can
have more time to look at what are we really doing? Are we trying to extend the city all the way
out to the prison? Thank you for your time, I wish I was more prepared.

Commissioner Wilson – Thanks, and now that we’ve got the pad up there…

Jackie Bond – And I do have lots of maps. All of those maps that the boys see in the influence
and it all says it were residential, rural urban preserve. That’s what it was called on all the maps
that the county had. So remember, that’s what everybody out there thinks it is…is rural reserve.

Commissioner Wilson – Okay, is there anyone else who did not sign up that would like to
provide testimony this evening?

Commissioner Wilson – Alright. Any questions for staff, applicant, or anybody who has
provided testimony this evening?

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Mr. Cooper?

Commissioner Cooper – I had a question for Angie. Based on those comments we just heard, I
just wanted to have you confirm that this was properly noticed and all the neighbors were
notified.

Angie Brosious – Madam Chair, Commissioner Cooper. Yes, we don’t actually mark or flag the
site but the site was posted at the corner of ____ there, so it was a visible site to the people in that
area cause I knew that was gonna be a primary concern. And the City did hold a neighborhood
meeting and we invited all of the owners and residents within’ 100-ft as required by the
ordinance and I do have the list. We sent out over 90 invitations to that neighborhood meeting,
so the requirements were met. Thank you.

Commissioner Cooper – Thanks.

Commissioner Wilson – No, your time’s up. Sorry.

Commissioner Brunelle - Madam Chair, I have a question for Angie, and perhaps our guest from
the State Department Of Lands can provide some comments as well. The comments from Mr.
Reynolds regarding that parcel, he calls it an L-shape but it’s actually not an L…it’s an upside
down L (laughs). I think he raises a pretty good point and it’s kind of funny that it comes after
we just dealt with re-zoning an area to residential and impacted maybe future industrial
development and I’m wondering what kind of discussions did you have with the land board and
with the Department Of Lands in the negotiations that led up to their approval back in June at their land board meeting about potential uses and conflicts of use. I also had a question, and this helps answer it, is what the current uses out there (and I assume it’s probably under some lease for grazing or some other use) and maybe our guest could comment on the requirements of the state constitution as it applies to endowment lands.

Angie Brosious – Madam Chair, Commissioner Brunelle. The city had numerous meetings with representatives from IDL to discuss what would be the most appropriate zoning for this area. I might note, this is the picture we did take when we posted the site. We do have a requirement to take a picture to show the site was posted, let’s put that right up there. And one of the big factors that played into what we could designate this area is the fact that it is in airport influence areas. And the site here is outlined in red, we’ve got some portions that are in airport influence area C, some that are in B and some that are in A. The only portion that could be given a residential land-use designation was this parcel here, which is right across from the golf course. That’s because it’s in airport influence area A which does allow for some residential development. Residential development is not allowed at all based on airport policies and comp-plan policies and FAA guidelines for airport influence area B. That includes this L-shape portion here, which is why it was given the limited-industrial. When we looked at limited-industrial, one of the reasons that we went with that designation is because in that particular zone you can ask for offices with a conditional-use permit. We realize that wouldn’t be a need for some transitioning, may not need to just be all industrial. We went with the limited-industrial because it doesn’t allow for heavy industrial uses or heavy manufacturing that could cause compatibility issues with the surrounding area and we did get the full support of the airport and we went to the land board hearing and presented the proposed zoning to them. You can also ask for supporting commercial uses within industrial parts too, which is something that we talked to the land board about is the potential in the future.

Commissioner Brunelle – Okay.

Kate Lankford – Madam Chair and commissioner, thank you for asking for additional response. From the Department of Land and standpoint and the land board, the description that has been described by staff is exactly the discussion that has happened. The charge that the land board has, of course, in the Department Of Lands for endowment properties is to get the consistent revenue stream and long-term revenue stream for the benefit of all of the beneficiary institutions that we have here within the state. Mainly being public schools, some of the hospital and some of the other public institutions that are listed for the constitution. One of the items that have been addressed by the resident of the local residential development is that yes; we do need transitional uses. Contrary to popular belief, this is not a preserve, it’s not an open space, and it’s not a park. It is currently being utilized by a variety of different ground leases. Namely, grazing and for the most part there is some agricultural crop-tilling actually being done. In the long-term we will go through a planning process. Obviously, we have highest and best use…but it has to be compatible use. I am the first land-use planner that the department has actually hired. That’s my charge, I’m not only with the city of Boise but also with all of the other jurisdictions within the
state. So, I’m glad to have the comments when we go through the land-use planning process for this site, as well as our other endowment lands within’ the state that have some transition potential over time. The appropriate uses with regard to airport proximity, FAA requirements, etc. that have been outlined by Boise staff are uppermost in our minds…as well as getting an income potential. One of the most attractive things about the mixture of uses described by staff is that we can get a mixed-use project. Mixed use does not have to be commercial, industrial, and residential all together. It can be a mixture of non-residential type uses or very compatible uses. There can be some very nice buffering done with office, or commercial or a mixture of those next to your residential area that act as a transition. I’ve been in planning for about 25 years in a variety of different western states and I’m confident we will come to an agreeable type of resolution when this property is ready for development. There are no development proposals, there are no exchanges for this property right now that is owned by the state land or any imminent development plans. At some point in the future, I’m sure there will be. If you have any questions, I’d be happy to answer those.

Commissioner Wilson – I have an additional question, Ms. Lankford and commissioner, thank you for asking for additional response. From the Department of Land standpoint and the land board, the description that has been described by staff is exactly the discussion that has happened. The charge that the land board has, of course, in the Department Of Lands for endowment properties is to get the consistent revenue stream and long-term revenue stream for the benefit of all of the beneficiary institutions that we have here within’ the state. Mainly being public schools, some of the hospital and some of the other public institutions that are listed for the constitution. One of the items that have been addressed by the resident of the local residential development is that yes; we do need transitional uses. Contrary to popular belief, this is not a preserve, it’s not an open space, and it’s not a park. It is currently being utilized by a variety of different ground leases. Namely, grazing and for the most part there is some agricultural crop-tilling actually being done. In the long-term we will go through a planning process. Obviously, we have highest and best use…but it has to be compatible use. I am the first land-use planner that the department has actually hired. That’s my charge, I’m not only with the city of Boise but also with all of the other jurisdictions within’ the state. So, I’m glad to have the comments when we go through the land-use planning process for this site, as well as our other endowment lands within’ the state that have some transition potential over time. The appropriate uses with regard to airport proximity, FAA requirements, etc. that have been outlined by Boise staff are uppermost in our minds…as well as getting an income potential. One of the most attractive things about the mixture of uses described by staff is that we can get a mixed-use project. Mixed use does not have to be commercial, industrial, and residential all together. It can be a mixture of non-residential type uses or very compatible uses. There can be some very nice buffering done with office, or commercial or a mixture of those next to your residential area that act as a transition. I’ve been in planning for about 25 years in a variety of different western states and I’m confident we will come to an agreeable type of resolution when this property is ready for development. There are no development proposals, there are no exchanges for this property right now that is owned by the state land or any imminent development plans. At some point in the future, I’m sure there will be. If you have any questions, I’d be happy to answer
Commissioner Wilson – I have an additional question, Ms. Lankford. Would you say that the Department Of Lands policy, attitude, or approach towards managing this property has changed from being in the county to being annexed by the city? Or do you think that you would’ve used the same approach developing the property in the county as you were within the city?

Kate Lankford – Madam Chairmen, very interesting question. The requirements from an FAA standpoint in the airport influence are there regardless of what jurisdictional label is on the properties. So those have very real constraints whether they be sound designation requirements or just simple compatibility issues, especially talking about height, which we’ve talked about a great deal this evening. So I don’t think that that attitude has changed. What is changing with the Department Of Lands is a different charge, if you will, towards overall asset management for the entire state. That’s timberlands, grazing lands, mineral issues which we have, so there are some exclamation things. As well as conservation in the appropriate area and then commercial or potential sale for residential development. And there’s more of an asset management plan being developed which is a very popular, if you will, concept or present-day concept endowment lands across western United States and so there is a movement to change the way endowment lands are managed long-term for the revenue stream.

Commissioner Wilson – Further questions? For staff, applicant or anyone else? Alright, we’ll go to closing comments.

Staff – Staff does not have any additional comments. Thank you, Madam Chair.

Commissioner Wilson – Thank you. With that, we’ll close the public hearing with one note: Ms. Bond gave us a copy of the aerial photo which I’ll pass around to the other members of the commission and we can take a look at it while we’re deliberating. So with that, we’ll close the public hearing and deliberate towards a decision. (Break) That’s what we’ve been doing all evening, is the comp-plan amendment for the rezone. Okay, we’ll do that again, so we’ll actually take up 13 first.

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Well, actually...do we annex first and then comp-plan map amendment? Which would you prefer, Andy?

Commissioner Brunelle – Technically the comp-plan amendment is like a zone on it, so I’d prefer that you annex first.

Commissioner Wilson – Okay. Then number 12 first. (Laughs) I’m sorry.

Commissioner Ellsworth – Madam Chairmen?
Commissioner Wilson – Yes, Chairmen Ellsworth?

Commissioner Ellsworth – I make a motion that we approve CAR06-60.

Commissioner Cooper – Second.

Commissioner Wilson – Okay, I have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairmen?

Commissioner Wilson – Commissioner Ellsworth?

Commissioner Ellsworth – Well, I think that annexation and the land-use map change is an unfortunate result of our tremendous growth in the city and I do think that the city needs to get out in front of our growth and plan for future growth and this is one of those areas that is contiguous to the city. And I think that the land board, sounds like the land board and the city have been in discussions about this piece of land for several years now and I’m confident that this will be a good improvement for the city’s future industrial and light-industrial growth. I think it makes a lot of sense from a land-use planning.

Commissioner Wilson – Further comments?

Commissioner Cooper – Madam Chair?

Commissioner Wilson – Commissioner Cooper?

Commissioner Cooper – Yeah, I’ll support the motion. A couple of things…I appreciate Angie’s additional comments about why the different categories of airport influence area require that that one parcel, I call it Caddy Corner, from Umatilla and Desert, had to be industrial because it was is not permitted in that airport influence zone. Also, there’s been a lot of news lately about planned communities out in the county. And really, this area south of the city has potential for quite a bit of new development with many new residences and since it is adjacent to the city this is an area where we can control that growth much better and serve it.

Commissioner Wilson – Further discussion?

Commissioner Brunelle – Madam Chair?

Commissioner Wilson – Chair Brunelle?

Commissioner Brunelle – I’m going to support the motion. I think it’s logical that this land come in within the city limits. Annexation carries with it our ability to have obviously, a direct
affect on approval of development. It also brings the other city services and it brings a third thing. We already have, what I consider with the city I guess as an appointed member of this body, we have a pretty good relationship with the Idaho Department of Lands and we’ve been working with them the last few years on some land exchanges in the foothills. We saw there was a need on the part of our residents to preserve some open space and the department came forward with a willingness to work on a land exchange proposal and it involved some exchanges involving BLM land and some forest service land in northern Idaho. So we’ve got this track record and I’m sitting here listening to Mr. Reynolds and Ms. Bond guarding this land out there. Obviously they are residents out there, they like the open space as it is. This is endowment land and endowment lands carries with it constitutional requirements that it generate long-term returns to the beneficiaries, which is mainly our public school system. But it also opens up possibilities of future land exchanges. I’d be interested in seeing a map of our city areas and what future park development we have for the city of Boise in that area that at some point in time, maybe some of the parcels out there would make sense for a future city park. I don’t know if the desire is out there to develop park land or if they’d like to leave it more in an open area, but with the Department of Lands you’ve got a group you can work with and the nice thing about it is that they’re run by the landlord and those are 5 people who live in the city too, so they care about the city. I know many of them and I think that they would be approachable if people had ideas about uses out there in the future that would be of interest to the people that already live in that area, knowing that there would be some development within the airport influence area and on this land that would be annexed.

Commissioner Wilson – Thank you. Further discussion?

Commissioner Orman – Madam Chairmen?

Commissioner Wilson – Mr. Orman?

Commissioner Orman – I would just like to say that I liked Mr. Reynolds statements about maintaining some open space out there as buffer between the residential and industrial as we know those two don’t really need to go together. Additionally, if there was a need for a park then maintaining that space would provide a good area for the park. In support of the motion, I think that we need to take a look at the possibility of maintaining some open space.

Commissioner Wilson – Thank you. Any other comments? With that, I will take a vote. All those in favor of the motion say “I.”

Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. Next we will take up the comp-plan amendment.

Commissioner Ellsworth – Madam Chairman?
Commissioner Wilson – Mr. Ellsworth?

Commissioner Ellsworth – Make a motion to approve CAR06-61.

Commissioner Cooper – Second.

Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Madam Chairman?

Commissioner Wilson – Commissioner Ellsworth?

Commissioner Ellsworth – Well, for a lot of the same reasons that we’ve just stated in terms of planning for the future…I think it makes sense to do both the annexation and the comprehensive plan map change, or amendment. Through this area, they kind of go hand-in-hand the way I see it.

Commissioner Wilson – Further comments? All those in favor?

Commissioners - “I.”

Commissioner Wilson – Opposed?

**CAR06-00057 / Pleasant Valley South, LLC**
Location: 6298 S. Cole Road
REQUESTS APPROVAL FOR ANNEXATION OF 601.30 ACRES WITH A ZONING DESIGNATION OF A A-2

**CAR06-00058 / PLEASANT VALLEY SOUTH, LLC**
Location: 6298 S. Cole Road
REQUESTS APPROVAL OF A COMPREHENSIVE PLAN MAP AMENDMENT TO CHANGE 601.30 ACRES FROM AIRPORT CONSERVATION AREA DESIGNATION TO PLANNED COMMUNITY DESIGNATION ON THE LAND USE MAP

Angie Brosious presented the staff report with recommendation for approval.

Commissioner Cooper – Madam Chair, I’ll need to excuse myself from these items, my firm is working on the development.

Commissioner Wilson – Thank you, noted. Enjoy the rest of your evening. Alright, with that we’ll go ahead and hear a staff report.
Commissioner Wilson – Thank you. Are there any questions for staff or the applicant?

Commissioner Ellsworth – Madam Chairmen, I’ve got a question for staff. The difference between 4 dwelling units per acre and 6 dwelling units per acre, is that driven just by the airport in months?

Angie Brosious – Madam Chair, Commissioner Ellsworth. Yes…. From a planning perspective, of course, we would encourage the 6 dwelling units per acre or even a higher density in something like this to support transit and to get the higher diversity in product types. And staff does acknowledge that with the gross density of 4 dwelling units per acre we will not receive, or not achieve as much diversity as we could with a 6. We would probably see some of the areas like, some of the policies talk about a range next to Lake Hazel, around the park, and you’ll probably see the lower end of those density ranges with the 4 units. But staff does feel that we will be able to get diversity of product types because the airport was willing to give us a gross for this entire area which can include the roads, the park, the school site, the neighborhood commercial. So there will be potential to achieve some diversity, but not as much, obviously. I mean, the higher in density you go, the more diversity you can get.

Commissioner Wilson – Other questions? Mr. Brunelle.

Commissioner Brunelle – Angie, or the applicant can answer this. I’m a little confused why there’s an issue south of Lake Hazel? Is it that there’s no disagreement with a limit on north of Lake Hazel or because we’re gonna’ be a business office park type of development north of Lake Hazel that this number of dwelling units is not…

Angie Brosious – Madam Chair, that is correct. For the area north of Lake Hazel, the airport asks that it be at 3 dwelling units per acre, they originally had it 3 ½ dwelling units per acre and the applicant agreed that that had the…unit per acre wasn’t critical to their development and they agreed to willingly accept the 3 dwelling units per acre maximum north of Lake Hazel and the airport is supportive of the rest that’s north of Lake Hazel as a business park. We are supportive of it as a business park, we’re not requiring the industrial land use designation that was originally proposed.

Commissioner Wilson – Do you have anything to add?

Larry Sale – One point, Madam Chair, on that line, a point I forgot to make unfortunately. The airport master plan does not include any designation of density in airport influence zone A. It says residential development may be allowed and the other requirement in the master plan is that the construction have sufficient insulation to reduce the outside noise level by decibels to the inside of the building. In our climate, that equates to standard household construction, particularly as far away from the noise as these buildings will be. But the master plan doesn’t have a number in it, doesn’t speak the density. Thank you.
Commissioner Wilson – Further questions? Alright, next we’ll go to the signup sheet. Thank you, Mr. Sale. Barbara Davis?

Barbara Davis (7221 W. Ring Perch Dr. Boise, Idaho. 83709) – They’re building in my backyard. At first, they told me that they weren’t going to build any schools and announced that they didn’t have to. Now, I see in their paperwork that they are planning to, at least hope to. They aren’t going to do anything about widening Cole Road and really the traffic off of Cole Road. Although, the Highway Department told us at that meeting that it…. Lake Hazel and Orchard weren’t even on the list, so it was out a good 5 years before this would be done. They also told me that the homes right in behind me would be comparable to mine. Well, the south Fork subdivision, the homes in there run $350,000 to $700,000. So at 3 dwelling units per acre, they just might make it…. Any less than that, they just might not. And when you say that this is the only open land that got left in Boise, after you’ve put several big subdivisions already through, we’re gonna’ have another California if you don’t stop and look at Boise and what a beautiful city you have. Thank you.

Commissioner Wilson – Thank you. That’s it for the signup sheet, is there anyone else who wanted to testify that did not have the opportunity to sign up? Please come forward. I’ll just have you state your name and address, and then have you fill out one of those magic forms and turn it in when you’re done.

Jerry Heinbach (6302 S. Cole Rd. Boise, Idaho. 83709) – I live on a one-acre parcel that’s within’ this area and I wasn’t planning to speak, but I am a retired professional civil engineer for Idaho and I was in Highway planning and urban development, urban transportation planning my whole life. And so, I would just want to speak to support the higher densities because, as we all know, it’s the lower densities that really does cause urban sprawl. And we haven’t sold anything, but we’ve been talking to the developers and working with them…my 90-year old father-in-law bought that 40 acres years ago in 1941 because he said, when he moved here from Denver, “this is so close to the center of town it’s going to develop something.” And he’s still alive, so he may see something. But I would just speak to support the higher development. We live there now, I realize the third runway will become a little closer, but the C-130s take off there all the time and we hear nothing. I mean, there’s no influence from the airport over our property and we’re not even in a flight plan because airplanes don’t land sideways on runways, they go off the ends, and this is all south. So I don’t see any reason for the airport to request lower density, especially on the area south of the extended Lake Hazel.

Commissioner Wilson - Alright, thank you. Anyone else who would like to testify this evening who did not have the opportunity to sign up? Alright. Commissioners, any other questions for the staff or applicant or anybody who’s brought forth testimony?

Commissioner Ellsworth – I have a question for staff. How much flexibility do we have when it comes to land like this in terms of density, when we have this airport zone A?
Angie Brosious – Madam Chair, Mr. Ellsworth. For the Comprehensive Plan policies for the airport influence A, the applicant was correct in stating that it does not have a specific number but limits the amount of residential. The policy simply states that residential is allowed, but you are required to provide soundproofing.

Commissioner Ellsworth – Well, how do we get to 4 from 6?

Angie Brosious – Madam Chair, Commissioner Ellsworth. In the meetings with the airport, that is the figure that the airport came up with that they thought would be acceptable. Originally, in our first meetings, they wanted 2 dwelling units per acre and then they agreed to go to the 4 dwelling units per acre and they originally wanted it to be all spread out, they didn’t want to have any clustering or have any multi-family, then they agreed that that would be acceptable as long as we did not exceed the gross density. According to their comments, they were not concerned about runway noise as much as over flight noise and they indicated that they would prefer lower density because the more homes you have there, the more people and the more complaints that they would likely get.

Commissioner Wilson – Further questions? Then we’ll go to closing comments by staff. Do you have any?

Angie Brosious - I do not have any closing…

Commissioner Wilson – Great, thanks. And rebuttal by the applicant then. You have five minutes.

Larry Sale – Madam Chairmen, members of the commission. Larry Sale for Pleasant Valley South LLC. again. I haven’t spent days on this piece of property, but I’ve been out there a few dozen times and spent a few hours each time. I have yet seen an airplane fly over the property. On the other hand, I live near the corner of Cassia and Owyhee, which is about 10,000 feet from the end of the existing runway. And I’m out in my yard a lot, and I see dozens of aircraft fly over my place every day and yet I don’t think the airport gets any complaints from that area. I think the complaints that the airport gets from over-flights are from the area directly in line with the runways and the development around the golf course and the area around Columbia Village. But I’ll get off that. With regard to traffic, if this development dumped all this traffic onto Cole Road, it would be a severe impact. That’s why we’re designing the project so that it will not, the first phase will have frontage on Cole Road. But our primary access will be the extension of Orchard and that will take traffic to and from this development in the north/south access and get it to the interstate Highway so that it can spread out and get on wherever they wanna’ go. Those are the only points I need to make thank you for your time and think about that compromise.

Commissioner Wilson – We’ll close the public hearing and deliberate towards a decision. I’ll hear a motion for the annexation first, and followed by a second motion for the Comprehensive Plan amendment.
Commissioner Orman - Madam Chair and commission, I make a motion that we approve CAR06-0057.

Commissioner Cooper - Second.

Commissioner Wilson – We have a motion and a second. Discussion? Commissioner Orman, would you like to give us some reasons for the motion, the decision?

Commissioner Orman – Well, I believe that this...that we do have a chance to get on the front end of future development with this being a planned community, a mixture of residential and commercial uses. It’s going to happen, so we may has well take the bull by the horns and do something pro-active about it.

Commissioner Wilson – Thank you, further discussion? I agree with Commissioner Orman that this annexation makes sense for the city, it’s a logical continuation of the city’s boundaries. And the zoning designation that is going to act as a holding zone until the master plan comes in I think is a good approach that the city has chosen. This is somewhat unusual, typically we get the annexation, the rezone, and the master plan all bundled together. But I can certainly see an argument for bringing forth part of it now and creating this holding zone until we get the details of the master plan worked out. And this also gives the developers a basis to work from, has given an opportunity for the public to weigh in about what kinds of things they’d like to see out there, so I think that this will be a good addition to the city and, of course, I won’t be voting unless there’s tie. But I think that I’d support the motion if I were voting. Further discussion?

Commissioner Brunelle – Madam Chair, I support the motion. I seconded it, that’s one reason I’m for it. Obviously, it is a logical extension of our boundary. There’s a lot of private land in Ada County south of the City of Boise that a lot of investors have designs for development over time. We need to be at the table, we need them in our tent rather than in the county’s tent. That’s a better analogy to use because we can have more orderly growth and, preferably, growth densities that can support and help pay for the infrastructure that would be extended and other services that would be extended to those properties. I’m all for annexing these properties here.

Commissioner Wilson – Thank you, any further discussion? Alright, all those in favor say “I.”

All Commissioners – “I.”

Commissioner Wilson – Motion carries. Next, I’ll hear a motion for the Comprehensive land plan map amendment.

Commissioner Ellsworth – Madam Chairmen, I make a motion to approve CAR06-0058.

Commissioner Brunelle – Second.
Commissioner Wilson – We have a motion and a second. Discussion?

Commissioner Ellsworth – Well, we’ve heard a lot about planned communities lately, the Mayor has talked about it and the county’s approved a few planned communities that are not contiguous to existing growth. This particular planned community is contiguous to existing growth, so I support it and I think that planned communities can be a good tool for the city to use. We don’t have a lot of opportunities ‘cause we don’t have a lot of large land masses to do planned communities but they can provide some of the things that the applicant pointed out. They can provide a diversity of housing types and mixed-use, which I think is healthy for the city. I think that anytime that you can keep people out of their automobile and cut down on the number of miles that people travel then you make that connection to air quality. So I think that this particular planned development does that and I would like to also make the change to go to 5 dwelling units per acre. Nobody’s told me I can’t do that, so I’ll throw that out there and make it a little bit higher density ‘cause I do think that helps.

Commissioner Wilson – Does the seconder concur?

Commissioner Orman – Seconder concurs.

Commissioner Wilson – Further discussion?

Commissioner Orman – I think he 5 dwelling units per acre is very appropriate. We’re trying to limit urban sprawl and one of the ways to do that is to put more people per acre. We just heard the deal an hour ago about the Franklin Road project. That was another good example, we’ve had two tonight. I think that that extra dwelling units per acre means an extra 400 homes, possibly. Infrastructure is already going to be in place, the roads will be in place, we may as well take advantage of it.

Commissioner Wilson – Comments?

Commissioner Brunelle – Madam Chairmen, commissioners, I will support the motion. I would have no problem with a 6 dwelling units per acre proposed by the applicant, with all due respect to our airport department with the city. And looking out for what they feel is their best interest, I think that may be going beyond and kind of overshooting their headlights a little bit here in prescribing a density limit that I don’t see a basis for in the Comprehensive Plan for airport influence A. If it’s an appropriate residential use, then to go beyond and to start saying how many units per acre, I just think is…they’re overstepping their bounds. So I’ll go ahead and support this amended motion as it is, but I think that the applicant in his presentation made some very good points about what he has observed out there. And I live in the east end of town and I think I’m under one of the flight paths and I think it’s just a fact of life here in Boise, with the Southwest Airlines zooming in from Portland three times a day, I see it coming right over the east end of town and it puts out some noise and we hear it at night as well. I’m just not
convinced by what the airport’s concerns are here and trying to limit the number of units per acre.

Commissioner Wilson – Further discussion? Alright, so we before us a motion to approve this at a density of five units per acre below the south Hazel extension.

Commissioner Brunelle – Can we add one more unit?

Commissioner Wilson – We’ll make it a motion.

Commissioner Brunelle – I think that’s a good compromise, I do.

Commissioner Wilson – I just wanted to point out that that still is a gross requirement that includes all of the entire area, so that is probably about as far as we want to push the airport, I think. Alright, all those in favor vote “I.”

All Commissioners – “I.”

Commissioner Wilson – Opposed? Motion carries. And with that, I don’t think we have any meeting notes tonight. We do? Alright. These are signed though, from September 11th? We didn’t have any in our packet. Okay, we’re adjourned.

Approved:

_________________________________
Brandy Wilson, Chairman
Planning & Zoning Commission

Date: ____________________________
Planning & Zoning Commission

Hearing Minutes of
November 6, 2006

Commission Members Present
Gene Fadness/Chairman, Doug Cooper, Andy Brunelle, Doug Russell, Amber Van Ocker, & Tony Blahd.

Staff Members Present
Susan Riggs, Cody Riddle, Todd Tucker, Scott Spjute, Joan Johnson, Lance Evans, Pam Engelhardt & Mary Watson (Legal).

Deferrals

CAR06-00030/ BOISE STATE UNIVERSITY – COMMISSIONER COOPER MOVED TO DEFER THIS ITEM TO DECEMBER 4, 2006. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

CFH06-00037 / CAPITAL INVESTORS, LLC – AND CUP06-00072 & CVA06-00032 / CAPITAL INVESTORS, LLC COMMISSIONER BRUNELLE MOVED TO DEFER TO AN INDEFINITE TIME. COMMISSIONER VAN OCKER SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Consent Agenda

CAR06-00050 / GEMSTAR PROPERTIES, LLC
Location: 3750 S. Maple Grove Road – Requests approval of a comprehensive plan land use map amendment to change the designation of ± 9.8 acres from estate density (3 DU/Acre) to low density residential (6 DU/Acre).

CFH06-00039 & CFH06-00040 / GEORGE O’NEAL/CHARTER BUILDERS
Location: Adjacent to 44 W. Parkecenter – Requests approval of a floodplain and Boise River System permit to place Rip-Rap for bank stabilization along the Boise River Boulevard in an L-OD zone.

SUB06-00093 / ALPENSTRASSE SUBDIVISION
A proposed preliminary plat for a single family residential duplex subdivision with 8 duplexes and 2 common lots located on the East side of North Orchard, North of Overland Road.
SUB06-00051 / BRIMINGHAM PLACE SUBDIVISION
A proposed preliminary/final plat for a single family residential subdivision with 15 buildable lots and 2 common lots located at the Northwest Corner of W. Targee Street and S. Orchard Street.

SUB06-00098 / CASTLEWOOD SUBDIVISION
A proposed preliminary/final plat for a townhouse subdivision with 2 buildable lots located on the Northwest corner of Covered Wagon and Five Mile.

ON THE CONSENT AGENDA, COMMISSIONER COOPER MOVED TO APPROVE THE ABOVE APPLICATION BASED ON THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUBJECT TO THE CONDITIONS OF APPROVAL AS STATED IN THE STAFF REPORTS.

COMMISSIONER RUSSELL SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

Regular Agenda

CUP06-00082 / METRO HOTEL, LLC
Location: 8687 W. Overland Road, and 8694 and 8736 W. Ardene Street
Requests conditional use approval to construct a 126 Room 3-Story extended stay hotel on ±1.96 acres located in a C-1D/D4 zone.

Cody Riddle presented the staff report with a recommendation for denial.

Joanne Butler – (Applicant’s business address /251 E. Front Street) Before I get started let me hand the commission a few items for you to look over while we go through our application this evening. First let me show you an overview of what an extended stay hotel is. I’m going to give you a photograph of what will be presented to the design review committee. This is not for review of the commission tonight but I did want to show you a little bit of what we are proposing. We are also proposing conditions of approval which I will also present to the commission. We are providing a summary of the uses allowed by conditional or as an allowed use and their traffic generation that is projected and Deanne Thompson will present a little on that latter to show you that there is no undo impact on traffic and then also a little bit of an excerpt of the land use section of Chapter 8 from the comprehensive plan that does include a map of the Southwest area so that you can see how it fits within that area. And I have a copy of all of those for Cody. With me tonight are a Keith Clark from our firm who has prepared a number of photographs showing the vicinity and what has happened in this vicinity showing the annexation of this area and the re-zone in 1999 and I think those photographs will show you that what has happened in this area in part is the fears of the staff in 1999 and 2000 have in some ways come to fruition and that the Savannah Suites proposal is fortunately being offered a way to combat some of the issues we are facing in that area. As I said we are passing out some
conditions of approval for the commission to review. Also here with me tonight is Aaron Lawson and Thelma Wilkie who are owners in this closely held company who would like to bring their company Savannah Suites to Boise. Aaron and Thelma will tell you more about their company. They will tell you why they chose to bring an extended stay to Boise and will explain what an extended stay is and what it is not. It is a hotel with a fully equipped kitchen, and a guest room. The average stay is anywhere from 15 to 33 nights consecutively. There are no conference rooms, no restaurant, no swimming pool, no truck parking, only automobiles are allowed to park in this area. So I hope we can show you tonight is that we do meet the conditions of approval, the criteria for you to reach a positive result and allowing a conditional use approval tonight. The design review committee will hear this. They are not at all limited in how they review any project as I think this commission knows. They will be going over such things as landscaping which on the use diagrams may look to be minimal but they certainly meet all of the codes and then some as proposed by the design review committee. A little bit of history in 1999 a property was both annexed and rezoned taking on zone similar to existing county zones at the time. At that time staff pointed out to commission and council that the zone was recommended by the SW Ada County Alliance and that perhaps was more limited than what the staff might have proposed at that time. And by the way I would like to incorporate all of the 1999 and 2000 files into record by reference here. Several of the comprehensive plan policies staff report on in this staff report today encouraged the development of relatively small scale commercial uses and very very diverse mix of uses in the area. 8.3.2 says a project should cumulatively form communities that have center focus combing residential, commercial, employment, civic, cultural and recreational uses. At that time staff noted that looking at the then commercial uses in the area that cumulatively the city was in danger of having a district composed of largely of retail uses only and you will see from the photographs that I will show you in just a few moments that that is what happened. Comp plan 8.4.6 talks about the formation of a single use commercial and office district should be discouraged while uses that serve a variety of shopping, entertainment, work, dwelling including this, temporary dwelling use which have very different hours of operation should be encouraged. Clearly that is what we are proposing for the commission tonight. The 8.13 one that Mr. Riddle mentioned that is specific to the SW area, it talks about zoning for a new regional uses shall be prohibited in the SW area and that new commercial uses should be of a size and design consistent with neighborhood serving facilities. As you are looking through chapter 8 and you look at the SW area map, I think that you will see that the northern border of the SW area is the connector and that Overland is a little bit south of that and I think that all of us in our minds eye understand what is in that area that is still the SW area and it is the spectrum and all of the uses that have been generated in that area they are in fact regional uses that have been promoted and have been approved in the SW area. We think that on Overland noted as an increasingly commercial area that what the Savannah Suites offers for the SW area is a stop to some of that strip commercial and individual traffic generating commercial in favor of an extended stay dwelling situation. Where there is not the increase in traffic that is promoted by some of that retail. The purpose of the neighborhood commercial is to emphasize uses which will provide services for nearby residential areas and other uses that are compatible with other residential uses and having relatively little impact. We are proposing that the extended stay motel is just that. Very similar to a residential use, it is
residential, this is for extended stay travelers, businesses, people with extended assignments often times construction workers, relocated families and as we will show there is very little impact especially from a traffic perspective. With regard to the conditional uses we have addressed the comprehensive plan compatibility we hope with the uses in the area. As you can see that it does meet all of the bulk standards. It is clear from the staff report that staff is concerned that the design review committee may not be rigorous in its review of this project. But I that again this commission understands that this design review committee is very rigorous and is also clear that the staff would like to reduce the standards but reduce it because of the design not because of anything else. I think that we are saying here that it is not the purview of anyone else here but the design review committee. And if we don’t pass compatibility with the design review committee then we don’t pass compatibility. We are certainly meeting all of the bulk standards and as you can see from the photos in just a moment, very much in keeping with the uses in the vicinity. So with that I will let others come forward for a few moments and then we will reserve time for some rebuttal at the end unless you have some questions at the moment.

Keith Clark – 251 E. Front Street. I have prepared for the commissioners some slides which include photographs of some parts of the area. We have focused on the area on Overland between Maple Grove and east over to about Entertainment. Slides given to Commissioners. Presents slides on overhead.

Thelma Wilkie – one of the 4 owners of Savannah Suites. We have been building, owning, operating extended stay hotels for the last 12 years. We build only for our own ownership. We own all the hotels we’ve built and we have our own management company as well. We are not part of any franchise nor do we franchise to anyone else. The 4 owners is the entire company. We have been building extended stay hotels which differ from other hotels in a number of ways. Each hotel room offers a complete kitchen which means a small sink, a refrigerator, a microwave oven and a stove top. We also provide dishes, utensils and cooking pots and pans. We really cater to people who need housing on a temporary basis. Typically our usual guest stays a month to two months at a time and these are folks that are on training projects that come into town, these are people who are moving into town who need temporary housing while they look for a home or an apartment. Thelma goes on to explain the uses and amenities of an extended stay hotel.

Chairman F.: Asks a question to clarify his understanding of what design review requires including floor space.

Cody Riddle: read Section 11-07-04 of the Zoning Ordinance outlining the limitations of the design review committee.

Chairman F.: Clarified staff’s findings and decision.

Commissioner Russell: Asked for a map of the SW planning area.
Betty Bermensolo living at 1970 Cananaro spoke on behalf of the SW County Alliance. Clarified with commissioners the neighborhoods view on this Hotel and how they are not opposed to it. The neighborhood is agreeing with the City Staff with regards to the incompatibility of this Hotel there amongst the older homes and older business buildings. Objecting to the mass of the Hotel with a 3 story instead of considering a 1 story, smaller structure.

Chairman F.: Clarified neighborhood objection as size and mass.

Jim Storey – 1607 South Ashpark Lane - Showed pictures which showed the older sections and neighborhoods. Stated his objection to this Hotel as far as the mass. A shorter smaller structure would be acceptable.

Betty Chadburn – 1457 South Linda Vista Ave – directly west of this project. The proposed development will generate additional traffic from outside the area placing an additional unnecessary burden on the traffic system that is already on Overland and Maple Grove. Other objection is that it does not fit with other developments in the area. Inquired about the flight pattern. Does not object to a long stay motel. States that this great big box is very inappropriate for this particular area.

Dan Thompson with Thompson Engineers – 181 East 50th Street Garden City. Presented a traffic study to the commissioners. Clarified his position on the traffic issues for this area. He believes that other uses of this land would generate much more traffic because there would be many more business that would fit on this property coming and going all day. Felt this hotel is a lower trip generating land use than many other acceptable uses for such a sight.

Commissioner Cooper: Clarifies the traffic report.

Commissioner F: Clarifies that ACHD captured a trip report.

Commissioner R.: What is planned for southside of west ardene.

C. Riddle: Much of property is still undeveloped or relatively new. Pointed out on a map where the residential areas are in relation to the hotel.

Commissioner Van Ocker: Wanted to clarify the plat and if this was originally platted for many more smaller pads.

Commissioner Cooper: Clarified if there was a report from the Airport.

C. Riddle: Answered that he had emailed the airport personnel and they had no objections. Summarized the city staff that compatibility is the big concern of the city.
Commissioner Russell: Clarified City Staff’s comments and feelings about the Regional Serving buildings.

C. Riddle: there are some of the larger hotels, Lowes and Walmart. They have different zoning designations. The purposes of those zones are different.

Rebuttal:

Joanne Butler: Clarified the concerns about the zoning in that area. Also addresses concerns about the traffic.

Motion by Commissioner Van Ocker to deny CUP06-082 and second.

Commissioner Van Ocker: Stated why she felt it should be denied based on the fact that they are unable to meet the criteria established in Section 11-06-04. Most importantly item A which deals with the compatibility in the neighborhood and the bulk and mass of this structure. I think it was very telling to me the original plat and this area was layed out and that there was plan on what was intended to go into this area. I think the buildings that are constructed out there are heading down that path. I would agree with the applicant to a certain degree that we have started down a path in this area with Spectrum and some of the development on Overland that if we could turn back in time a little bit I think we would probably rethink some of the bulk and mass that has happened out there. We can make an argument as far as the code that this does not meet the bulk and mass and design. With that the applicant has requested that we give some guidance on what we would approve and I believe the other commissioners will chime in on this. I think the use is appropriate. There is a need in this area. A 3 story structure on three lots and the remaining lots in the area are not going to have that sort of structure on them. I believe it will be feelings awfully strange. I would be able to look more toward a 2 story structure that is reduced considerably in mass that would help blend in. Explained the surrounding buildings in comparison to this hotel.

Commissioner Cooper: States he does not consider this a neighborhood serving facility. Talked about his opinion of the height.

Commissioner Russell: I think in addition to that section in the Comprehensive Plan which emphasizes services for near by residential areas, I think it also states that we can allow uses that are compatible with residential uses. And I think that when you look at things like the traffic report and when you look at other buildings that are in the immediate vicinity, I think it does have relatively low impact compared to some of the other facilities like the Walmart keeps coming to mind and the Black Eagle Center which creates a lot of business activity on a daily basis. So I think that this use could potentially be better than another use like a coffee shop or you know a pharmacy or one of the things here that caught my eye is a bank. Which have really high traffic counts on a regular basis. A convenience store which I believe is located down there at the corner of Maple Grove if I’m not mistaken. So I think that you consider from that angle
this could be a pretty compatible use and I think that you know we have been seeing a lot of applications along Overland Road lately and we keep running into this same deal. What is compatible with residential and what is not and I think that what’s happened out here is that we have a major corridor that runs through the city of Boise and the city has deemed it a commercial area and that’s evident by the uses that we see out there on that road. And I think that it is unfortunate that a lot of these residential areas have gotten caught up in the middle of that but I think that that is to the fault of some zoning that’s happened and taken place in that area and some things that have happened with the comprehensive plan but when you look at the documents that we have in place today this is a pretty compatible use. Now I do agree that there may be some things that can be done to the building. I do agree that there’s a real lack of height in modulation. I don’t really like the elevation that has been presented to us today I think that there’s better architecture along this corridor but I think that that is something that needs to be looked at by Design Review. I think that if they achieve the number of units that they are looking to achieve and still have a building that is acceptable by design review, I think that that is okay with me. But I think that this is good for the neighborhood or is compatible with the neighborhood. I think it is better than some of the so called regionally serving facilities that are really close by. The presentation comes to my mind every time we deal with this area that I believe Doug Tamara talked about this triangle in here. And the bottom here is that there is a lot of high intensity uses over in this area and you know I can understand why the neighbors don’t like it but I think that in this case when you look at the immediate uses that this is pretty compatible. I think that there are good buffers based on some of the LOD zoning to the South and Overland Road across the street. I think there are a lot services that are in the immediate vicinity of this hotel that the people that are in this hotel can use on a regular basis so I think that’s a good thing because there are a lot of facilities that are within walking distance so I think where I stand right now is I’m going to vote against the motion and I think I’ve just posed to you the arguments as to why I will.

Commissioner Brunelle: I’m going to support the motion from Commissioner VanOcker and I agree if her motion that this is an issue that boils down to 11-06-04a the bulk mass of the building and it’s compatibility with the surrounding area. I think the staff is coming from on this is that they are talking about a bulk and mass issue relative to compatibility once we get into the design review’s purview their ability to shape this design is only based on health and safety considerations so I agree with their approach on this. My take on this is the mass and bulk of the building the way it stretches north to south on those two lots is just too large of an area and it comes too close to Overland Road with a 3 story structure right up to the road with just the setback for a couple of the parking spots to be compatible with the neighborhood. Ms. Butler the applicant’s representative asked for us to tell her what would meet with the approval of the commission and I think she has got some good ideas from my fellow commissioners. I guess one thing I would look for would be more articulation or modulation of the building itself. I think Commissioner Cooper mentioned breaking it into two buildings could be looked at. I think what I would not want to see would be 3 stories that close to Overland Road. There is one other 3 story building that is fairly close to this off of Venelle Way, I happened to be there today at a meeting that houses a couple of federal agencies and I think that is compatible because it is well
back from Overland Road and is screened quite a ways away and it is obviously closer to the higher intense uses over by Walmart and all those buildings. So I think as you move further West on Overland Road we need to pay attention to the mass and the bulk of those buildings and I think Commissioner VanOcker is correct in pointing out the lot sizes and what the plan was for this building when it was subdivided contemplated something of a smaller scale for development.

Chairman F: The motion is to deny CUP all those in favor of the motion vote I. The motion is 3 to 1 it carries with Commissioner VanOcker, Brunelle and Cooper voting for and Commissioner Russell voting against.

**CUP06-087 / INDEPENDENT SCHOOL DISTRICT OF BOISE**
Location: 6400 W. Overland Street
Requests conditional use approval to construct a new Elementary School located in a A-1 Zone. The existing school on site will be demolished.

Commissioner Russell: Not voting. His firm is currently providing consulting services for the school district.

Commissioner Van Ocker: Not voting.

Cody Riddle: Gave a very condensed staff report. Staff recommends that they redesign if necessary the trash enclosure/parking area so that the trash truck does not have to back out onto Fairfield Ave. and that they provide landscaping and fencing adequately to screen the enclosure from the neighbors.

Motion and a second. Approved unanimously.

**CAR06-62/ PROGRESSIVE PROPERTIES**
Location: 5320 W. Targee Street
Requests approval for a rezone of ± acres from R-1B to R-1C.

Lance Evans presented the staff report with a recommendation to deny.

Richard Beck with SLM Planning – 148 No 2nd Street, Ste 101 – Eagle, ID
Addressed the issues that Lance addressed in the staff report.

Daniel Mowery – 4122 South Eagleson Road – Representing the Hillcrest N.A.
Addressed the feelings of the neighborhood with regards to this project in opposition to the project.

Molly Humphries – a resident in the area. Addressed her feelings in opposition to the project.
Chris Gardner – a resident in the area. 2014 South Phillie. Addressed his and his wife’s feelings in opposition to the project.

Philip Millholland – 2025 South Phillie. Followed up on the points of others and to express their happiness in living in the neighborhood and in opposition of this project being proposed.

Commissioner Russell: Does this neighborhood have any type of neighborhood plan?

L. Evans: No it does not. Closing remarks.

Rebuttal from applicant.

Richard Beck: In behalf of the applicant. Realizes that the neighborhood and staff concern is preservation of the neighborhood. Emphasizing that because of location there will eventually be a rezone approved and there will be a redevelopment. Development will be limited.

Public hearing closed. Deliberation. Commissioner Cooper made a motion to deny CAR06-00062, motion seconded.

Commissioner Cooper: There is a clear delineation between the different zones in this neighborhood and while this particular lot is right on the corner and adjacent to more dense zones making a change here would really break the clear border that we have and that would make things worse. And that is the primary reason for my motion.

Commissioner Brunelle: I agree I think the staff recommendation and their findings basically nailed this point about the appropriate place where the zoning should occur using the street boundaries versus having a small area whether it be an incursion with the different zone. So I agree with the motion. This application will go to City Council for their ultimate decision. I would urge the council also to read the testimony from the people in the neighborhood.

Commissioner Van Ocker: I don’t really have anything further to add as far as the motion is concerned but I think to the neighbors. It is obvious that you neighbors are a collective whole and if you do not already have an established plan I would very much suggest that you get with City staff.

Motion is to deny the rezone. Motion carries.

CUP06-00090 / IDAHO POWER COMPANY
Location: 2398 S. Maple Grove Road
REQUESTS CONDITIONAL USE APPROVAL TO EXPAND AN EXISTING SUBSTATION AND FOR A HEIGH EXCEPTION TO CONSTRUCT A SUB-TRANSMISSION LINE, THE POWER POLES WILL NOT EXCEED 90’ HIGH. THE SUB-TRANSMISSION LINE WILL RUN NORTH FROM THE EXISTING SUBSTATION ALONG THE EAST RIGHT-OF-WAY
OF MAPLE GROVE TO FRANKLIN ROAD, IT WILL THEN RUN WEST ALONG
FRANKLIN ROAD ON THE NORTH RIGHT-OF-WAY TO CONNECT WITH THE
EXISTING SUB-TRANSMISSION LINE.

Susan Riggs presented the staff report with a recommendation to approve.

Applicant: Christy Pardue – business address is 1221 W. Idaho Street – Boise, ID. Applicant
added a few more details to S. Riggs explanation of the project. Asking for a CU to expand the
yard of an existing substation allowing us to put another transformer in the yard and supply 30
more megawatts to the area. We are also asking for a height exception to fill in a missing gap
that we have with our 138 lines connecting if we were able to upgrade an existing line going
down Maple Grove now to 138 we could tie that in to an existing 138 on Franklin meaning that
we could back feed to Victory Substation in the event that we lost power from the primary
source. Had project manager show maps on overhead.

Chairman Fadness: So in a matter of a few years there will be no more outages in Boise? Laugh

Applicant: Well I’ll have you ask my project leader about it. Laugh

Edward Kerpa – 88 Cotteral Drive – Directly across the street of Franklin where the junction
point of the existing line stops. You speak of aesthetics; there are a lot of people. First of all I’d
like to know how you get the line all the way down Franklin in front of the people who are on
the bench without them throwing a fit but. Aesthetically that new line that will run along
Franklin there would affect quite a few views I believe. Second of all you look at the five year
plan to widen that road will all those poles have to come out when Franklin widens.

Chairman F. – Asks Mr. Kerpa to direct the questions to the Commission and then the applicant
can address them at rebuttal time.

Edward Kerpa: What will happen when roads will be rezoned and widened? Now we will have
this main corridor there with 90 foot poles which I don’t think will be any aesthetically less
pleasing than they are now. Those are just a couple of questions that I have. And I’m also
wondering if any of the existing wooden poles that area across the street, if any of those are
going to be upgraded to try and match the 90’s or are we going to have those big angle drops
across from the 90’s.

Chairman F.: So you don’t think the metal poles are anymore aesthetically pleasing than the
wooden poles?

E. Kerpa: Well it depends on the height you are at. If you are ground level and a one or two
story home then the wooden poles are going to be in you eye of sight but most of those people
are that bench are up 20 – 30 feet rise with 400 now probably 700 thousand to 1 million dollar
homes if they were to remodel and those poles are going to go right up in front and will block their view across the full city and Bogus Basin.

Ralph Melon – 4500 N. Tumbleweed Lane – Boise, ID 83713. Expresses his concerns about how to use existing corridor instead of putting in an additional corridor and the base size of the poles to be impeding on the residents there. I recommend they send this application back to staff for their guidance.

Commissioner Brunelle: Asking questions to be addressed by applicant.
Boise City Planning & Zoning Commission
Minutes of
November 6, 2006
Page 12

Rebuttal

Applicant (Christy Pardue): - Addressed the questions which had been asked by neighbors and commissioners regarding the location of the substation, location of the poles, widening of Franklin Road and the effect on the location of poles. Height of poles and steel poles versus wooden poles.

Deliberations begin.

Motion and a Second to approve.

Commissioner Van Ocker: We understand that we have existing needs and with new construction taxing those existing infrastructure. I want to just note for the record and I know that Idaho Power does go through these processes with ACHD and in locating new poles and right of ways that are going to be acceptable for any 5, 10 15 year work plan they have so that they are not reinventing construction and potential coordination with property owners when there is a situation when you can adjust a pole to maintain a view corridor is looked at I am sure to serve everyone’s needs. I don’t think there is anyone in this room that does not understand the need that we are up against but again if coordination can be placed the greater good I think we are all better served.

Commissioner Brunelle: I think that the questions that Mr. Kerpa brought up and pointed out with regards to the view and aesthetics on the residents of that bluff to the South and then Mr. Mellon brought up some pretty good points that I wish could be looked at so what I will do is cast a no vote but condition that I use electricity, I like electricity and I support it I kinda just wonder…we do get something that comes along once in a while and maybe alternatives can be looked at. Neighbors pointed out something that might have been missed in the neighborhood meeting and it might be worth our local power company look at their suggestions. Both with highway district and railroad.

Commissioner Russell: Yea I second the motion but I am concerned about the view of the neighbors and the poles sticking up in the air. Quoted zoning ordinance number 11-6-4.13. Not sure how he will vote now.

Chairman F.: Inquired that Idaho Power has looked at all existing corridors and emphasized the cost of above ground power as compared to underground and how cost prohibitive it is.

Commissioners Brunelle and Russell voted no, Commissioners Van Ocker, Cooper and Fadness voted I. Motion carries.

CAR06-00063 / COURLY DEVELOPMENT, LLC
Location: 11801 & 11803 W. Florida Drive
Requests approval for a rezone of ±2.04 acres from R-1A to R-1B.

Susan Riggs presented the staff report with a recommendation for approval.

Commissioner Cooper: Question to Susan. I didn’t notice in the ACHD portion of this staff report their opinion about...in my opinion they usually don’t like when you turn off of an arterial and then turn immediately 90 degrees again onto an access road. Did they comment about that at all?

S. Riggs: I believe...

Kent Brown (Applicant’s address 1500 E Iron Eagle, Eagle, ID 93805) I have done a number of these developments with the frontage roads in the SW. Did some out on Duncan’s Lane in fact almost all of Duncan’s Lane has these frontage roads. It’s an option in the Subdivision Ordinance to have the buffering from the street. Commissioner Cooper’s question about that immediate turn was not an item that was brought up in their discussion. They did not see that being an issue. We have done these before on Amity Road and some of the other roads that are in the SW and not really experienced any of those issues so I don’t know how to speak to that other than what we have tried to design here is trying to buffer those homes from the street so instead of having the back yards 15 feet from the street area, they are set back by having a frontage road and landscaping in front. So as you look at what we are proposing here, you have ACHD is going to put in a 7 foot sidewalk and then they are asking for an additional 6 feet for a future widening and we are going to do a license agreement over that 6 feet then are we are going to have 14 feet of landscaping that is between us and frontage road and then a 20 foot service drive and then a 5 foot sidewalk on the north side and then meeting where would be your normal setbacks. But all of that area described, the frontage road the sidewalk, the landscaping is all a part of the lot and so those lots front onto Overland Road. They have Overland addresses, are visible from Overland and so as we have dealt with the Fire Department on these, they are within 150 feet of the street and they have no issues with having secondary access and these kinds of things even though we could provide one if we needed to off of Lisazo. Then the back yards of these homes are basically going to have a park in their back yard which is the common area and we feel that it is something that is enticing for the area and provides a good mitigation against the street that is out there. Do you have any questions?

Chairman Fadness: Commissioners do you have any questions for the applicant or staff?

Commissioner A. Brunelle: Mr. Brown, I was looking at these revised conditions of approval. Like there would be a change on the front setback or an adjustment to the front of the homes. I guess that would be the only difference because that is what is underlined here so that is the only change?

K. Brown: Yes
Commissioner A. Brunelle: Okay so I am assuming all that would do is affect the front of your houses there. That the driveway would be or the garage would be setback.

K. Brown: Yes my client is willing to make those changes and have the garages recessed.

A. Brunelle: Okay

Commissioner D. Cooper: I think I read in the original report before tonight’s conditions that there is a condition to require that the garages be setback from the front of the house by 5 feet. This condition here is actually different it actually gives setbacks meaning that if you met the 20 foot setback with both then you would not have to have the garages behind the front of the house? Is that right?

K. Brown: That is not the way I understood what we were doing but.

D. Cooper: Well then maybe we need to get a clarification from Susan then about that.

S. Riggs: I think the intent of this condition is that the garages should be recessed 5 feet back from the living area of the home. So from the back of the sidewalk where they will be measuring the setback per the attached sight plan will be 15 feet for living space and then the garages must be 5 feet back from there.

K. Brown: And we are agreeable with that.

D. Cooper: I guess I just don’t read it that way. As long as staff and applicant are agreeable that that is what they will do then I am happy.

Joe FurFaro: (Public person: 11885 Overland Road) We’ve talked about some pretty stuff there, let’s talk about some ugly stuff. We talked about some other folks earlier but these folks are talking about putting homes on top of homes. My house is across the street with approximately 7/10’s of an acre. Now they are planning to widen Overland Road again after 6 years. The houses to the East of us are 5 acre parcels. Pepper Hills built their subdivision and with the understanding that they are adjacent to these lots that they were going to be 1 acre lots and then we have this mini strip that will be here. But that is not my deal here. If they get a go ahead that is fine, it is pretty. And we discussed traffic tonight. We have discussed Overland Road several times earlier. We have like I said 7/10’s of an acre. That drive that they propose to bring in is our driveway exactly across the street. There is a power pole there which I have pictures of here with head on accidents of that very entrance. This is a fatality here. These here were November 6, 5:30 in the afternoon, a 5 car pile up and here’s that same telephone pole. Remarkable. When I come home at night, my wife or I it is a mid evil joust. People start using Overland Road as far back as Petra although it is not on this map here. As far back as the Walmart parking lot using that center lane as a passing lane. We have people trying to turn into Lisazo and that is where our joust is. We have that one stretch there across the street there of their entrance. At Lisazo
Avenue I have to make a mid evil joust whether they are turning left at Lisazo they approach a good 150 feet before that so there I am head on. This development here insists upon having there entrance across the street there now. Am I going to be dealing with a head on collision. Are they turning into Lisazo, are they turning into that now are they saying there is going to be an extra 100 vehicles of traffic? That is the estimate? Now you tell me if you can sleep at night when they see the obituaries of my wife and I being dead by trying to get into our home at night there? And I’m telling you it is a mid evil joust. They start taking their turns to dump into Lisazo at least 150 at the entrance of my driveway and when do I get my turn. Now I’m going to have a head on collision with somebody. Are they passing, are they going to Lisazo? What do I do put a cow plow on my vehicles? That’s basically my argument here.

Chairman Fadness: Okay thank you.

Commissioner D. Cooper: I’m just curious, if we could have this gentleman, okay I got confused. But could he walk up to this map and kind of give me a quick explanation of what he just told us. Make it quick if that is okay with you Mr. Chairman?

Chairman F. Sure if you could do it in one minute sir? But you have to speak into the mike otherwise you can not be heard on the tape here.

J. FurFaro: Okay. This is our lot right here. Here’s Lisazo Street. They have this entry way right here. They say the entry way that is existing right there. People start coming down Overland Road here to turn onto Lisazo. I’m coming this way and I have my signal on. It has happened several times, who’s going to let who in. And I’m telling you. This passing lanes from Petra, they start all the way from Petra here, use that center lane as a passing lane to get to Pepper Hills Subdivision. We asked the City but of course by the time we had to prepare this. Actually the officer set up here and observed this from 4:30 to 6:30 in the evening. There was a head-on collision here, a fatality, Mrs. Littlefeather is no longer with us. There was a 5 car collision here at the same location where that pole starts, November 2. Like I said it is a mid evil joust trying to approach, trying to come into our drive and now they are going to have a head-on here someone trying to turn in across the street to me? How do I get to my house?

Chairman Fadness: Okay thank you sir. Anyone else care to testify on this item. Okay

Mr. Chairman my name is Tom Monterastelli – 11875 Florida Drive – Boise, ID 83709 which is adjacent to the property in question. Would just like to say that during the meetings that we have had on this proposed development that the developer has been very forthright in telling what there plans were. It looks like a nice plan for a piece of property. When I attended the public meeting or the neighborhood meeting, there is some concern as has been expressed about the turn in off of Overland but other than that I believe that in general the neighborhood is in support of this. I don’t speak for the neighborhood association but only for myself but by observing I believe that there is support for this I think it would be a good infill for the city.
Boise City Planning & Zoning Commission
Minutes of
November 6, 2006
Page 16

Betty Williams – 11885 W. Overland – Boise, ID 83709 – I just wanted to also say that I don’t see that everybody, like you were saying the neighborhood thinks it is a good idea to put these houses in because when we had the original meeting it sounded like most people were not wanting this project to go ahead. So his statement confused me that is why I was wanting to say that. Thank you!

Chairman F.: Okay I think that covers the public testimony. Susan did you have anything you wanted to add.

S. Riggs: No.

Chairman F.: Commissioners did you have anything that you wanted to add for the staff or applicant before we go to rebuttal?

No questions or statements.

Chairman F.: Okay we will next go to rebuttal.

Kent Brown 1500 E Iron Eagle, Eagle, ID 93805. With the widening of Overland, they are in the process they have let that contract, they are moving the poles, they are starting to do the irrigation stuff. They are in the process of making some changes and yes the traffic currently with one lane each way with a center turn is inadequate but when they get to the 5 lanes it will be much different and then with ACHD’s request that we have a right in/right out I believe that it will be much better. I live off of Eagle Road right across from St. Lukes – Meridian. There are over 65 homes in my subdivision and their entrance comes out onto Eagle Road and we have a right in/right out and we like the convenience of where we are located because we can be to where we want to be and we like our home and I believe that this would be the case with these people being a right in/right out and won’t create that problem that we talked about from a traffic standpoint. Any questions?

Chairman F.: I don’t believe so. Hearing closed on this pending a decision. You can deliberate on all three but we will take each one up separately when we vote.

Commissioner Van Ocker: I’m not ready to make a motion because I have some concerns. I was hoping that we would have a little bit of discussion. I have been trying to find the ACHD staff report and the only thing that they are citing is just some special conditions outlining the parcel and the reason that there is not a full detailed staff report as near as I can tell is that it is not a public road. That they have an existing access road onto this parcel and then from there it goes into a private road section. And I was hoping to have a little bit of discussion about this. I think the project actually is very well designed. Could be a nice infill project along in this area but I have huge concerns about ACHD. I travel this road all the time and it’s a nightmare out there and I’m just concerned that maybe ACHD hasn’t reviewed this application in the depth that they need to because they are really not designing in a public street so I don’t know. I am not
ready to make a motion because I am just not comfortable yet but whether or not anyone else saw something in the report that I didn’t see they could shed some light.

Commissioner Brunelle: I was handed this ACHD report by staff. But I did not see it in our packet. I don’t know if anyone else had.

S. Riggs: Mr. Chair, members of the commission; the staff report was not included in the CUP or rezone report but it was in the subdivision report and that staff report came from the subdivision file. I’m not sure why it wasn’t included in the conditional use file.

Commissioner B.: There is summary information.

S. Riggs: Yes.

Commissioner B.: Okay it shows up on page 8 of 21 of the subdivision record. At the top of page 8 underneath the table it says number 5 capital improvements plan 5 year work program. This is the same text as in the report and it says there are no roadways, bridges or intersections in the general vicinity of the project. Currently in the 5 year program, Overland Road is scheduled for widening to 5 lanes (construction beginning this year) noted in the FYWP slated for widening to 7 lanes in the capital improvements. I guess what I interpret that is that they are scheduled for widening with construction beginning this year but it is not noted in the plan as I interpret this.

Chairman F. In other words I’m wondering if the project was moved up and is scheduled for this year even though it wasn’t in the plan.

Commissioner Van Ocker: Okay. We are getting way off track here.

Chairman F. We will reopen the public hearing although we won’t need to now to discuss CUP06-00091 the conditional use permit

Kent Brown 1500 E Iron Eagle, Eagle, ID 93805 – We did have this acted upon. The ACHD had put this out for bid last year. It went over budget so then they re-did it again. It came in under budget. I think it was in September that they issued that contract to Concrete Placing so they are heading forward and moving that forward.

Chairman F: Is that this year?

K. Brown: This year. That goes from Fred Meyers to where they dropped off at Eagle and the widening that they have done there. Because this has created that bottle neck and where all that problem is. Is that specific to what you wanted?

Chairman F: Anymore questions, is that it?
Commissioner Van Ocker: That’s perfectly what I needed to know.

K. Brown: I think I understand. What we are talking about is this is getting widened to 5 lanes and then they have in there 20 year plan widening of arterials to 7 and so they put that which requires us to give an additional 6 feet today because we have a sidewalk in our area.

Commissioner Russell: Maybe some of my commissioners could help me out on deciphering this under # 3 of this ACHD staff report there is an access policy and they stated district policy states that direct access to arterials and collectors is normally restricted and that the developer should try and used combined access points. Do you think that policy is discussing the units that are being built here or does it mean that they should try to use Lasazo?

K. Brown: There was some discussion about connecting to Lasazo because you have the intersection and the bridge we do not meet the offsets there and you are allowed to driveway which would put us right on top of the bridge if we had an entrance off of Lasazo so in the overall what we are looking at, we have our entrance with a right in right out and in our very westernly boundary provided a means for cross access and then if you go another 125 feet to the west you come in at Sumter and then like Eagle Road where I take my access if you needed to you would have possibility of having another light or a means of a full access at that point, but for right now all they would allow us is a right in right out.

Commissioner Van Ocker: Mr. Brown do you know if ACHD is actually going to have a concrete structure that with not permit any left hand turns?

K. Brown: I believe that there was a signing and they said that was a possibility in the construction but they didn’t solidify that if you will.

Chairman F: Further questions?

Commissioner R.: So are they requiring you to provide a stub to the west?

K. Brown: We are required to provide a cross access to this service drive that we are proposing yes.

Commissioner R.: So there could be more people coming out of this?

K. Brown: No if you look at the parcel to the west of us it is in a similar situation that is south of the creek there and for it to develop the only access point that they would probably provide it because you have the backing to the intersection. We discussed this at length because we tried looking for another access. Alley loading and pushing the houses closer to the street and those kind of things and in the end after going back and forth it was agreed that this was advisable and then we have the added future protection because we can have a cross access to our neighbor and then hopefully, maybe. I mean really the only way that the property to the west of us can
develop is to have a similar type of development in my opinion. Probably they are exactly the same size another 10 lots and then have a full access at Sumter. That is future planning but the Highway District was acceptable to that in their approved staff report for the subdivision.

Commissioner Brunelle: For Mr. Brown, so the right in right out requirement for this driveway would mean that you would only be able to enter into this when you headed West.

K. Brown: That’s correct.

Commissioner B.: And when you leave you would have to go West?

K. Brown: Correct. So this question about the turn lane or the middle lane. I mean if they require and island in there it would trying to offset and I know you understand. You are offsetting the turning lane for Sumter and the turning lane for Lasazo. So if they would require that. My personal gut feeling is when they widen to 5 lanes they won’t have the bottle neck and the traffic is going to be better for a longer period of time. I had full access on Eagle Road for a long time and you know it is a little bit of an adjustment to get used to a right turn because I have a concrete island in the State of Idaho you are allowed to U-turn so I U-turn at the light and I like where I live so I deal with it. And I believe that the best design instead of having an alley and pushing the homes back and then you have landscape buffers and everything putting the back yards closer to this road does not serve to having the frontage road and pushing the houses back is. And I think the design is the best for this piece of property.

Chairman F.: I know we have raised some new issues here and I believe this is un orthodox here but I feel an obligation to allow as long as you stick to the issues and raise no new issues if there are members of the public who want to respond, please come forward.

Joe Furfaro - 11885 Overland Road. A little part of this is a little bit of greed more than anything else. I’m sure if they decided to loose the lot and move it down to the other end of the entrance could solve this whole deal quite frankly. And as far as law abiding citizens as the one lady said the Idahoans are getting a little crazy with their driving. Who respects a u turn. A u turn is only where it is marked and who says that I’m going to turn West...I wanna turn east and who’s there? Unless there is a barricade like that out there. Then again all I can say when again, when you go to sleep at night and you wake up in the morning and see our faces in the obituaries and knowing that we could have stopped this just by simply giving up a lot and moving the entrance. That is all we are asking, give up a lot, drop the greed. Thank you

Betty Williams 11885 West Overland Road. If they are only allowed to turn West out of that subdivision then they would be doing a u turn right there at Pepper Hills Subdivision going around and then coming back right towards us again to go East right towards us again. So that is where there turn around will probably be. So then again it impacts our house. Thank you.

Chairman F.: Thank you. Ask for further questions of commissioners.
Commissioner Russell: Maybe this gentleman can answer. The lot that this man here owns behind you. There is a lot directly to the West of him is that driveway enter into Overland also? It is in Pepper Hills but it looks like it has Overland Road frontage.

K. Brown: You are speaking about these people on the southside of Overland? They enter across from us. If you look at your aerial you will see. The lot that is directly to the West of these people is non-residential.

Public hearing closed. Deliberation begins.

Commissioner Brunelle made a motion to approve CAR06-63. Motion seconded.

Commissioner Brunelle: With this I’m recommending to the City Council that we approve the rezone of the 2 acres which overlaps the following things we are going to discuss in the R-1A to an R-1B zone and I think that the staff report lays out an adequate record for that. Just to point out that there is already R-1B’s existing zoning as part of the subdivision. This would be bordered on 2 sides by R-1B.

Motion for the rezone approved unanimously.

Chairman F.: Now the CUP deliberation and decision.

Motion by Commissioner Russell to deny CUP06-00091 and seconded.

Commissioner Russell: I would just like to say, I do not have an issue with this development as far as it is a good infill project makes a good product. I think eventually when this ties to the property to the West it could work better I think. One of the things that really caught my eye tonight before I even got started these deliberations was Mrs. Burnensolo’s letter and her only concern being is that she would prefer to see that this subdivision enter or have access off Lasazo and I think this gentleman gets up here tonight and makes some good points. And I understand there are some sight constraints there. I guess in the back of my mind I’m just wondering if there isn’t a way to redesign this sight to make it work or to have access to Lasazo or sit tight, acquire some additional property until we can connect there at Sumter Way. Not really sure what the answer to it is but I do know that I think there have been some pretty significant traffic issues that have been raised tonight and I just don’t feel comfortable dumping 100 trips a day out at that location on Overland whether there be right in right out or not unless there would be a barrier there is just potential conflict waiting to happen and I just am having a problem voting in favor of it. Normally this type of project doesn’t really bother me at all I think you have made great effort but for some reason this traffic issue is just jumping out at me tonight and I have a problem with it.
Commissioner Cooper: I guess I just comment that since Lisazo is a public street that ACHD would never permit an intersection within 150 feet of Overland Road so it's really possible to access this safely from Lasazo. I certainly understand the concerns about Overland itself.

Discussions between the commissioners.

Commissioner Van Ocker: I think that the applicant pointed out that the 150 offset would put it right at the canal which obviously makes the requirements for ACHD impossible. However I do agree that maybe it just not time to develop this parcel until property to the West is ready to be developed with it and you can have some alignment with Sumter and potentially deal with a lot of these traffic issues or if we are looking at a road widening that is occurring within a year. I am uncomfortable also. I don't think that ACHD has given this application the do diligence that it needs to have and maybe they have. I am just uncomfortable with their analysis of this piece of property. And we are not the body that gets to make those decisions. It puts us in a difficult position also but we need to feel comfortable with what we are doing and not create a situation that's going to perpetuate an existing problem. I don't have the answer. Potentially this can be differed until we get a bit more of an analysis from ACHD. This would make us feel better or I would like to know the exact construction time from for road widening.

No further discussion. Motion carries to deny.

Commissioner Russell: The real problem that I have is the access on Overland Road and I think that one could argue that in Chapter 6 of transportation of the Comprehensive Plan you know there is some items in there that state that we need to take advantage of appropriate opportunities to connect the local roads and collectors and also look to provide some connections to adjacent properties. I think that by taking advantage of and providing connections to some adjacent properties in the future we are going to have a better project than we do now but I think the underlying concern that I have on this and I think that some of the commissioners have back me up and the second thing is that we have a dangerous situation with traffic entering into Overland and I think that is the real issue with this and I think that I would just direct and request that staff would look at Section 6 or Chapter 6 of the transportation of the Comprehensive Plan and just take a look at what I have said and come back with a finding that backs up. I think it is kinda easy to do. I think if I had the entire Comprehensive Plan in front of me I could expand on that. But I think basically safety is the issue and that's my concern.

Commissioner Brunelle: I suggest we look at 11-06-04.13B the proposed use not placing undue burden on transportation and other facilities in the vicinity. Until we have a clear idea of when the widening will be complete, we really don't have a good idea of the impact of the proposed use is. Burden of proof is on the highway district providing the information to us that it is not an undo burden so I would stand behind the lack of the information and some undo burden as one of the findings.

SUBDIVISION – SUB06-00094 / CHLOE ESTATES SUBDIVISION
Commissioner Russell made a motion that we deny Commissioner Cooper seconded. Motion carried unanimously.

Minutes for October 2 and October 16 approved

Hearing adjourned.

Approved:

[Signature]

Gene Fadness, Chairman
Planning & Zoning Commission

Date: 12/11/06
Planning & Zoning Commission

Hearing Minutes of
November 13, 2006

**Commission Members Present**
Brandy Wilson/Chairman, Andy Brunelle, Doug Russell, Amber Van Ocker, Brian Ellsworth, Lauren McLean, & Tony Blahd.

**Staff Members Present**
Susan Riggs, Cody Riddle, Todd Tucker, Scott Spjute, Joan Johnson, Lance Evans, Pam Engelhardt & Mary Watson (Legal).

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**Consent Agenda**

Chairman Wilson: First we will go to our consent agenda which it appears consists of one item this evening. This is:

**CUP05-00159 / LAMAR OUTDOOR ADVERTISING**
Location: 201 N. Cole Road – TIME EXTENSION

Chairman: Commissioners I will entertain a motion on this.

Commissioner Russell: Madam chairman; I would like to a motion that we add CUP05-00159 to our consent agenda this evening. Seconded by Amanda Van Ocker.

Chairman: We have a motion and a second any discussion? All those in favor. All voted in the affirmative. No votes against.

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**Deferrals**

Chairman: We’ve got one deferral this evening.

**CAR06-00067/ CITY OF BOISE** – REQUESTS AN AMENDMENT TO BOISE CITY CODE TITLE 11, CHAPTER 2, SECTIONS 4 & 5 TO ELIMINATE THE REQUIREMENT THAT ONE MEMBER OF THE DESIGN REVIEW COMMITTEE BE A MEMBER OF THE PLANNING AND ZONING COMMISSION, AND TO ADD A REQUIREMENT THAT ONE MEMBER OF THE PLANNING AND ZONING COMMISSION SHALL BE A NON-VOTING, EX-OFFICIO LIAISON TO THE DESIGN REVIEW COMMITTEE, AND TO EXPAND RADIUS NOTICE REQUIREMENTS FOR DESIGN REVIEW COMMITTEE APPLICATIONS. And we are looking for a deferral to December 4. Is there anyone here who
wanted to testify on this obscure ordinance adjustment that would not be able to return to our December 4th meeting. Nope doesn’t look like it. So I will entertain a motion.

Commissioner VanOcker: Madam Chair I will make a motion that we defer CAR06-00067 to our December 4 meeting. Lauren McLean seconded.

Chairman: We have a motion and a second any discussion? All those in favor? Motion carries.

Chairman: Now I want to warn you guys I’m going to take things a little bit out of order um first thing I will take up is we will take a look at doing agenda items 2, 4 & 5 and Subdivision A ahead of our main headliners this evening because I think we will be able to take care of those rather quickly and if not then we will go ahead and hear them in the order in which they have been put up for.

So beginning with Agenda Item #2 which is CAR06-00064 the applicant is Phil Bennett, the location is 7775 W. Hill Road. This is request for approval for annexation of 1.06 acres located with a zoning designation of R-1C. At the same time with that we will be taking up the association subdivision. Subdivision A SUB06-00097 the Outdoor Terrace Subdivision which is a proposed preliminary plat for a single family residential subdivision with 6 buildable lots and 2 common lots located on the South side of West Hill Road, West of Gary Lane.

First I would like to ask, is the applicant present. Yes. And is the applicant in agreement with the terms and conditions of the staff report?

Applicant: Yes but (could not hear her on the tape).

Chairman: Okay then we will go ahead and put you back in the regular order on the agenda. Since the applicant is not in agreement with some of the conditions on the subdivision those items will be heard in their regular order. No we’ll look at item 4 which is CAR06-00066 BRS Architects. The location is 4262 North Eagle Road. This is request for a rezone of 7.34 acres from R-1C to L-OD. And I was just like to note for the record that we did receive a letter from ITD regarding this project. Now is the applicant for this item present? (did not hear the response) And is the applicant in agreement with the terms and conditions of the staff report? Okay the applicant is present and agrees with the terms and conditions of the staff report. Is there any member of the public here who would like to testify in opposition to this application? Okay seeing no public opposition I think at this point we can waive the staff report for this and the commission can deliberate towards a decision.

Commissioner Van Ocker: I’ll make a motion that we approve item number 4 CAR06-00066 with staff’s recommendation of approval, findings of fact and conclusions of law. Seconded (did not hear who seconded). We have a motion and a second any discussion?
Commissioner Van Ocker: On this application the applicant is requesting a rezone from an R-1C designation to an L-OD. Our comp plan supports this and this is actually a piece of property that’s on Eagle Road that would be very difficult to develop appropriately in a residential use so I think that this correct motion to make on this.

Chairman: Thank you, further discussion. (heard no response) All those in favor. No opposition. Motion carries. Next item I would like to take a look at is agenda item #5 CAR06-00065, the applicant is Tyler Pond, the location is 2400 S. Maple Grove Road. This is for approval of annexation of 8.12 acres with a zoning designation of M-1D. Is the applicant present? And are you in agreement with the terms and conditions of the staff report? (heard no response). The applicant is present and agrees with the terms and conditions of the staff report. Is there any member of the public here who wishes to speak in opposition of this item? (heard no response). Hearing no adverse testimony I think we will go ahead and waive the staff report and I will close the hearing and ask the commission to deliberate towards a decision.

Madam Chairman.

Chairman: Commissioner Van Ocker.

Commissioner Van Ocker: I’ll make a motion to approve item #5 CAR06-00065 with recommended conditions of approval and findings of fact.

Chairman: I have a motion do we have a second? I have a motion and a second, any discussion?

Commissioner Van Ocker: Madam Chairman this application is also we actually annexed all the land surrounding this property a few years back. The comp plan does designate this as an industrial type of use. It is adjacent to an Idaho Power property that we actually looked at last Monday so I think this is probably the appropriate way to send this larger piece of property for the city.

Chairman: Thank you, further discussion? (heard none) All those in favor? Motion carries. And that brings us back to our regularly scheduled program.

**Regular Agenda**

**CAR06-00032 / DEPOT BENCH NEIGHBORHOOD ASSOCIATION**

REQUESTS APPROVAL OF AN AMENDMENT TO THE BOISE CITY COMPREHENSIVE PLAN TO ADOPT THE DEPOT BENCH NEIGHBORHOOD PLAN BY REFERENCE FOR APPROXIMATELY 985 ACRES OF PROPERTY, BOUNDED BY CRESDENT RIM DRIVE, FEDERAL WAY, OVERLAND ROAD AND ROOSEVELT STREET. THE NEIGHBORHOOD PLAN OUTLINES LONG RANGE GOALS AND POLICIES FOR THE FUTURE DEVELOPMENT OF THE NEIGHBORHOOD.
Lance Evans: Presented the staff report with recommendation of approval.

Applicant – (tape did not pick up the name, address or opening sentence by applicant).
Applicant asked that the Commission approve a new Depot Bench neighborhood plan.
Applicant gave a detailed description of the new plan and also did a comparison of the former plan and the new plan.

Chairman Wilson: Ask for questions for staff or the applicant.

Jim Pickett: 3501 Windsor Drive – Boise, ID 83705. Lived there for 10 years. Expressed how pleased he is with living in the neighborhood and how happy he is about the new plan.

Michelle Crawforth – 3220 Crescent Rim Drive – 83706. Expressed her support of the new plan.

Dave Crawforth – 3220 Crescent Rim Drive – 83706. Expressed his support of the new plan.

Jenny Hoffenbeck – 3225 Crescent Rim Drive 83706. Lived there over 45 years and expressed her support of the new plan and thanked all those who have worked so hard on the plan.

Cindy Roberts – 2905 Gem Street – Lived there for 19 years on the Homeowners Board and on the committee for making the original plan. Totally in support of the new plan.

Julie Fonslow - 1504 Columbus Street – Lived there for about 2 ½ years. Supports the new plan with one caveat. The original draft of the old plan was over oppositional (she thought) to mass transit in the neighborhood. Addressed her concerns and offered the following possible solution: There is a lot of open space within the neighborhood which could be suitable for light rail transit which could be a benefit to the neighborhood.

Scott Beach – 405 S. 8th Street – Made some general comments. Expressed the fact that he owns the property which Julie Fonslow spoke about as a possible place for the light rail. He also expressed that he is generally in favor of the new plan. Made a point that he feels it is important that the City and neighborhood recognizes the role that this neighborhood association plays in the larger community. Great opportunity for mass transit.

Chairman: Asks for any other public testimony or questions from the commissioners.

Chairman: Questioned the applicant with regards to the fact that the plan does not embrace sidewalks in fact it seems to actively discourage sidewalks unless there meet certain agreements and are asphalt sidewalks. Found that a bit confusing given the emphasis on schools and mass transit and also with the link to the canal system and the irrigation. Gutter and sidewalk gives you much better drainage throughout the neighborhood than what you have now. Ask applicant to expand on that.
Karen Lockhart – 3606 Talare Drive – Sidewalks have been an issue for the neighborhood. One of the issues is that they want to save the tree canopy. One conclusion is instead of having sidewalks they would like an asphalt path to direct around trees.

Commissioner Ellsworth: Question for staff. Couple of places in the staff report where it talks about height exception.

L. Evans (staff): The zoning ordinance would be the overriding document on that. Those are the rules and regs. What you see in the neighborhood plan is a desire and so it just meant to direct that they want to discourage variances and any height exceptions but the zoning ordinance would be the overriding document.

Commissioner Russell: Would like staff to expound on the last question. Overall a good neighborhood plan. As a whole he would like to support the plan. But when an application comes in where the developer or homeowner has referred to the zoning ordinance to do whatever it is they want to do then maybe one of the neighbors is not happy with it and they point this neighborhood plan, then how is the neighborhood plan used in that instance? I realized that the zoning ordinance wins at the end of the day but at the same time how is this neighborhood plan considered?

L. Evans (staff): The neighborhood plan is a general, guiding document. The ordinance is the specific rules. Again the neighborhood plan is a broad brush approach…these are what we would like to see and the ordinance when those details come down. For instance that house has to be 20 feet from the property line those are where the details come out. So it provides direction for possible future ordinance amendments or changes and it provides direction in the sense that what we are looking at to weigh in and understand where the neighborhood is coming from. But until the ordinance is actually changed which we can sight examples from many neighborhood plans and even language in this neighborhood plan that looks at we want to seek these opportunities to make those changes and so this is some of the give and take that the neighborhood has made for us. Gave an example in the neighborhood plan.

Commissioner Russell: Okay…look up at #6 where it specifically uses the word prohibit does not say seek to prohibit, it says prohibit.

L. Evans (staff): Again it is providing the general direction.

Chairman: Asks for further questions.

L. Evans (staff): No closing comments.

Applicant - Rebuttal: Karen Lockhart – Did a summary presentation.

Motion made to approve CAR06-00032. Seconded.
Commissioner Russell: Expressed some concerns about limiting homeowners to doing what they want/can do. Great step in improving the neighborhood.

Commissioner McLean: Expressed how it is a good plan and very impressive the work that has gone into it. Just remember the zoning ordinance does trump this plan if something is to come before the commission but also for us as a commission and the city to realize that this is the vision of our neighbors and to take that into account as well when we are taking other issues into account in the future.

Commissioner Brunelle: Supports the motion but had a few comments. Spells out some specific vision and intent of what people in the neighborhood believe is desirable for the neighborhood as well as things they would like to avoid. Specificity is needed always and encouraged. His take on the height exceptions. Looking at the City Code height exceptions are processed the same as conditional use permits and in 11-06-04.13 when we make a decision on a height exception using the same criteria as a conditional use permit, we as a commission are required to make specific findings that there is evidence in the record that supports a greater height than what is allowed for that zone. And one of the things we are supposed to take into account is compliance or consistency with the comprehensive plan. The fact that the ordinance makes reference to the comprehensive plan tells me that while it is not mandatory that the comprehensive plan would be controlling on that decision. It definitely provides the touchstone, it provides the color, it provides some background that we as a commission need to rely on rather than having a blank record so I don’t see an incompatibility in fact what we need are more of those kind of guiding points in the comprehensive plan down at the neighborhood level to help guide us in our decision with conditional use permits and on height exceptions. So I have no problem at all with what the neighbors put in there because it puts us some guidance and our future commissioners guidance because they were not here when this was written in the first place.

Chairman: Made a couple of comments on the writing of the plan and definitions.

Motion to approve carried unanimously.

**CAR06-00064 / PHIL BENNETT**
Location: 7775 W. Hill Road
REQUESTS APPROVAL FOR ANNEXATION OF ± ACRES LOCATED WITH A ZONING DESIGNATION OF R-1C.

**SUB06-00097 / OUTDOOR TERRACE SUBDIVISION**
A PROPOSED PRELIMINARY PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 6 BUILDABLE LOTS AND 2 COMMON LOTTs LOCATED ON THE SOUTH SIDE OF WEST HILL ROAD, WEST OF GARY LANE.
Chairman Wilson: So with that we’ll just go to an abbreviated staff report and then find out what is on the applicant’s mind with the subdivision.

Staff - Susan Riggs: Gave an abbreviated staff report.

Applicant – Evelyn Grime: (business address 720 Idaho, Suite 20 – Boise, ID) And our concern tonight and why we disagreed with being put on the consent agenda is I had not received confirmation from staff that this site plan that you see here would be supported by staff and if I could use staff’s podium I could show you why we were concerned. The concern is if you construct a public street with the cul-de-sac turn around with ACHD approval for a non typical turn around and without fire department approval you would end up with something like this (and she shows another site plan different than the one attached to the subdivision staff report) so we are trying to comply with staff’s requirements for a public street and our desire for a private street this was our proposed compromise and we are satisfied now that we are working out a compromise along these lines. For clarification we have 4 buildable lots, 1 common lot plus the area taken up by the proposed public street under this configuration. We do understand that curbside walk and gutter would be required along Hill Road even though this drawing is not showing that. The configuration with this turnaround also meets the requirement of providing future access to the neighboring lot without creating a visual cue with inviting someone to go into this neighboring lot which my understanding is this neighbor is concerned with this. So we are providing for future access, we are meeting current needs, we are working thru that compromise so based on this sight plan and those comments I stand for questions and my client is in agreement with where we are going.

Chairman Wilson: Thank you any questions? Anyone here from the public that would like to comment on this application?

Eugene Pullman - 7897 Hill Road. I have a few comments. I realize that progress keeps going on and I can't stop it all the time but I will try on this one. The house right next to the subdivision belongs to Mr. Jolep. When they built that home they had pilings 15 feet deep in order to support that home. The ground was quite unstable. Where they are going to build these homes down there used to be a swamp and there is still a spring that runs down the mountain and keeps feeding water down there and there is water in that area. When they built Hill Road Parkway they thought they were going to go right acrossed it and they buried a couple of big trucks down there because the ground there is very unstable. It continues to keep water down there. You can't see anything on the surface. I realize that you don't like leap frogging nobody does really. This is a small island really there is 19 total acres if they include what the county owns. There are three of us on that road that are fixed income citizens and Mr. Jolep who is a member of the sheriffs department. If we get annexed into the city our taxation would much greater than it is at the present time and its heavy enough now. On these entrances they only have one entrance and no exit. Is this what they normally do with new subdivisions is one entrance; I thought they had to have two entrances? Another thing that creates a problem is that intersection at Hill Road and Seamons Gulch is
dangerous. We have to watch it everyday when we come out on Seamons Gulch the garbage trucks going down the dump road and the trucks coming up you know they are supposed to be traveling 35 miles an hour but we can't see far enough up the hill and we have to be very careful getting out there so increased traffic will create more problems. The property to the North is owned by the County and the property to the East is owned by the County and the County filled in most of that area with dirt from Hill Road Parkway.
Susan Tilton - 2712 N. 24th St. - I am here because this property affects me by way of inheritance. My parents land is just 2 properties away from this. The first thing that I would like to state is that on your paperwork under the Executive Summary the 3rd paragraph down last sentence; staff is not aware of any public objection the proposed rezone, this is not true at the last neighborhood meeting in September those of us stood up and said that we were against this rezone and we did not approve of it so I just wanted to put that on record. I would also like to just reinstate the drainage problem, what that will cause and then again on your Executive Summary on the very last paragraph; the annexation will facilitate the orderly expansion of city boundaries. We ourselves had talked about a rezone and considered this in January and February and I just want to put on record again because it says this will not negatively impact the neighborhood properties or public services. We were told there was no way that Ada County or the City would consider rezone of this area. So I am just wondering how they made that switch so quick. In Chapter 8 the land use; when a diverse mixture of lifestyles and atmospheres and that is what your goal is, I'm just wondering how we can be diverse if we start subdividing every parcel of land that is open and free because that is probably what is going to happen. Once you subdivide one section it is going to carry on so we would like to ask that it be left open. The properties along this way have already been impacted by city growth by way of forced sale when they wanted to put the new road through there so these families have already given up land and they have already made a sacrifice for city growth. We understand that developer or land owner, he shared with us that he could not afford a home that he wanted and so he wanted to subdivide in order to be able to afford a home. We are asking that he just put one other home on that property and we will go ahead and agree with that but we do not want all of the development that is going to happen along there. I am concerned also about the impact, I do not understand I don't see that there is a clear vision in Policy 8.1-4 and maybe I'm misunderstanding this. It says that this does not automatically disallow neither lower density development nor higher density development. And it sounds like it just pretty open there to what you have planned for this area. Maybe it should be thought out more clearly. Anyway just wanted to wrap up by saying that I would like to have you consider the heritage of the land, we are willing for growth but we do not think that there should be so many places on that land.

Todd Jolep - 7825 W. Hill Road - the afore mentioned person next door. Like Gene said old Hill Road is very historic in Boise and this is a dead end section of old Hill Road. To the north we have foothills with trails and everything, we have a canal that runs above the properties and we get hikers and bikers and horse people all the time. We can't stop growth and I have no problem with something being built next to me. I am the new guy on the block literally but having 4 new neighbors on the land that I was able to only build one house definitely does not go with the neighborhood. We have an old barn style home down the street, we have a modern style, we have a ranch style, we've got my home whatever it is classified, we will have as many homes on one lot as the rest of the street and the traffic will be an issue. I do work for Ada County Sheriffs office and can attest to that corner of Hill Road is not a good one because people essentially do
not do the speed limit and even the car in front of my house is a police car and that does not seem to be much of a deterrent at all so I can pretty much guesstimate how fast they are going. I mean twice the number of people on that street in one fell swoop is going to cause problems. Just to keep the neighborhood the way it is, the feel, the open space, the trees, what's to there already, I would not object to one home down the road but 3 would be excessive and I have never had any intention of building down below and that is why I bought that. I have a big lawn and my kids enjoy it. That's all I have.

Mark Smith - 6224 Lucky Lane -Thank you for the opportunity to speak. I think the only thing that I would say is in my lifetime I saw the parkway come in and it took the traffic away to pretty much an unused street. I have kids that have gone to River Glen and that's a cross country road and every Saturday and Friday night when everybody can get a break that's a bike road. That is what it has developed into and so the change that I see will be basically a street again and there is no piece basically from there all the way down to Eagle. It will turn it back into what it was before and so what you have done is you have taken all traffic off and put it where it should be and let all the people I know can see you develop it at sometime but you are building 4 houses in between all that area. And it makes me wonder when you sell off your parcel how much is going to be built. Townhomes whatever you know it kinda leaves it up to you know. It is kinda like at one time he was allowed one house and that's his grandfather's place being developed and so there is immense history there so it is kind of a personal issue and that's all I have. I would just like to say that you know it is your decision to make but thank you for your time.

Chairman W: Questions?

Commissioner Russell: Just wondered if staff could let us know if they know what ACHD is doing with the property to the East?

S. Riggs: I do not know, I think the property will probably go up for sale but I know right now it owned by ACHD and I'm not sure of any acquisition of that property.

Commissioner Brunelle: Question for staff. Curious about the existing zoning R-1 tell me what the actual dwelling limit is for R-1 zoning?

S. Riggs: R-1 in the county is 1 dwelling per acre.

Commissioner Ellsworth: Do we have a zoning that is less than 8, do we have a state zoning?

S. Riggs: R-1A which is I believe a 2.1 dwelling units per acre, R-1B 4.8 per acre. So the possibility to annex it in with a different zoning is there but it does not correlate with the subdivision.

Applicant – rebuttal: Appreciate everyone's time tonight. I would like to address a few things not necessarily in sequence as they occurred through neighbor's testimony. To address Commissioner Russell's question about the ACHD property, my understanding that the property is not currently for sale and they have no intention of selling it in the near future. There is a waiting list of developers when it should go to auction but that's not on any current agenda or plan. The fill that was placed there during construction of Hill Road Parkway is going to require additional time to settle and one of the comments that I understand came from ACHD was you know when the ground is stable we will look to sell it. So I don't know that that is going to occur in the very near future. The other point that I would like to bring out is the contour difference between the property to the east and my client's property. There is a significant change where if you were to provide connection from my client's property to the ACHD property, it would be very difficult to construct a road to meet ACHD requirements and some exception would be required just to cut it in. In case that is where Commissioner Russell's question was going about connectivity. That's my understanding of the ACHD property. When we talk about zoning to address Commissioner Brunelle's question, the current density shown is 3.77 per acre. So even though we are asking for a rezone of R-IC the proposed subdivision is 3.77 so that's actually the R-1B density. It is not our zoning but it's our density. The current subdivision plan maintains the existing home at lot number 1 and the existing access so the current subdivision plan does not take away the existing character of the sight. The lot lines that have been proposed between 1 & 2 also help preserve the existing trees when you go down into proposed lots 3 & 4 and the common area lot 5 there isn't the existing mature trees there to be concerned with. The question of access for subdivisions -shouldn't there be two points of access. Access is not allowed onto Hill Road Parkway even though the neighbor 2 lots to the west has an existing historic access at such point that that were to change and redeveloped that would be closed as well. So there is only the ability to connect to Hill Road. At the meeting in September just to clarify was not a public hearing but I believe that was the neighborhood meeting. And opposition was shared then and that information was shared to staff with the application for subdivision and rezone annexation. And our lot sizes again are more consistent with the R-1B density with the smallest lot size being 10 square feet off the 7000 square feet. The others are ranging from 7200 up to 9500-9600 so again the layout of the subdivision is actually more in keeping with the transition of rural to an R-1B zoning. And I stand for questions.

Chairman W.: Closed the public hearing for deliberation.

Commissioner Van Ocker: I'm not really ready to make a motion yet but I wanna start some discussion. I kinda get the feel anyhow… I think my problem that I have with this even the revised sight plan that we were given is that this little over an acre parcel is being developed as an infill parcel but it's not infill there is no surrounding subdivision in which there is a leftover 1 acre parcel or a neighborhood is transitioning. I don't get that feel here, I think we have an actually real unique series of parcels being created because of a new roadway. And this parcel even though I could take this plan and put it somewhere else in the City of Boise and probably be just fine with it being developed in the fashion, it just doesn't feel right. And I think we are going to march down a road here that we will regret to be quite honest. And the motion I would like to make, I'm not quite ready for yet until more people chime in with their opinions.
Commissioner Brunelle: I would be comfortable recommending annexation to City Council with an R-1A zone and the reason I support that if someone ends up with a motion like that maybe I will make a motion is that I'm looking at the surrounding zones to the north, east and west and just seems that an R1-A is a better fit and I've got problems with an R1-C zone making the jump across Hill Road Parkway to the South but based on what I heard tonight in the public testimony, I think they pointed out some important things that made me uncomfortable with what we have here in the records in the staff report so as far as the annexation with that zone.

Commissioner Russell: I think both fellow commissioners here have made some pretty good points and I would like to just add a little here. I think one of the neighbors brought up a piece of information tonight of the fact that there is about 19 acres over there and I feel like this is a pretty special little pocket over there between the two Hill Roads and ideally we would have a master plan that would fit in that space real nice and we would avoid a hodge podge of development down there like I think this project right here might start the seeding. I think that this design that we seeing tonight is not going to mesh together with anything that might happen in the future to the east or the west. I think maybe it is a bit premature. I think that I could go along with Commissioner Brunelle's suggestion that we go to R-1A and allow the owner to build one more house on the property but I agree I'm definitely not comfortable with three additional homes on this property unless there is some significant changes made on the 19 acres that surround it. Why don't I go ahead and make a motion to recommend to City Council with respect to CAR06-00064 this motion will he to move for annexation with a zone of R-1A. Seconded. For expediency I want to incorporate by reference everything that was said by my fellow commissioners prior to my motion as well as my comments and I hope that the staff can use this information to take to the City Council.

Chairman W.: Any further comments on this motion to accept an annexation and go to R-1A?

Motion carries. Next I will hear a motion on the subdivision

Commissioner Brunelle: I move denial of CAR06-00064. Seconded. Based on the adoption of our motion of CAR06-00064 on the annexation and rezone the Subdivision will not he compatible with an R-1A zone.

Commissioner Van Ocker: I am having second thoughts on that. I don't know if I can ask staff a question really quick. If we deny the subdivision application does that mean that they can not come hack in with a two lot sub? I just want to make sure we clarify that before we do.

Scott Spjute: They can certainly come hack in at anytime unless the City Council denies the subdivision and the annexation. So both of these are recommendations but they can resubmit yes prior to denial by City Council yes. And if City Council denies it as is they could come hack with an R-1A and if you go forward with the recommendation for denial we ask that you actually set this over to the December 4 hearing so we can come hack with findings.
Commissioner Brunelle: Madam chair I want to amend my motion to include a stipulation that this he held over to December 4 for staff to bring hack findings for the denial. Seconded.

Motion for denial carries.

**CUP06-00099 / W.L. OVERLAND, LLC**

**Location:** 10121 W. Overland Road

**REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT FOR A MIXED-USE PLANNED DEVELOPMENT CONSISTING OF 32 RESIDENTIAL UNITS AND 2 OFFICE UNITS ON +5 ACRES LOCATED IN A PROPOSED N-OD ZONE.**

**SUB06-00070 / WOODPARK SUBDIVISIONS**

**A PROPOSED PRELIMINARY PLAT FOR A MIXED USE SUBDIVISION WITH 32 RESIDENTIAL TOWNHOUSE LOTS, TWO COMMERCIAL LOTS, AND FOUR COMMON LOTS LOCATED ON THE SOUTH SIDE OF W. OVERLAND ROAD, BETWEEN W. COUNTRYMAN DRIVE AND S. GOLDKING WAY.**

Chairman: For the record we have a received a series of several color drawings depicting some elevations and the subdivision plat and some layout plans. So with that we will go to a staff report.

Cody Riddle: Thank you madam chair. The site is located at 10121 W. Overland Road. The Southside of Overland just about ¼ Mile East of Five Mile Road. It is within the boundaries of the South West Ada County Alliance Neighborhood Association and the Southwest planning area. Just briefly for the record you mentioned documents submitted by the applicant. I did provide the commission also with a letter of opposition from a neighbor during the work session that I just wanted to make note of. From Pete and Joyce Barcus which was provided to you as well. A little background a different conditional use permit was heard a couple of months ago on this parcel. It was heard along with the request to rezone the property from A-1 to the N O D or Neighborhood Office with Design Review. The commission did recommend approval of the rezone, it has yet to be heard by Boise City Council. At that time the Commission recommended denial or actually denied the conditional use permit and recommended denial of the associated subdivision. The applicant has submitted this new conditional use permit and feels that it is substantially different than the previous application. While the density of the project has not changed from the previous submittal staff agrees that the project is different enough to warrant a new CUP hearing. I believe the applicant is going to go thru those changes and differences in detail but I would like to briefly touch on those. The different unit configuration has allowed for some very noticeable changes to the site. Most notably the rear yard setbacks in these locations have doubled from 15 feet to 30 feet along the perimeter. And the front yard setback on Woodpark Avenue has increased from 15 feet to 20 feet. Additional open space and amenities have also been provided with this request. In reviewing the record from the previous conditional use permit staff recognizes that many of the concerns previously raised have been addressed. However it is staff’s opinion that the application still does not meet all of the findings required for approval. In the Boise City Comprehensive Plan there are some there are clearly some
elements that would support a project like this in this location. The site is located near community activity as delineated on the vision map you see here. And policy 8.1.3.1 does indicate that higher residential densities are appropriate at and around workplaces, shopping places near activity centers and along transit routes. The site is located in close proximity to each of these elements. Objective 8.1.6 encourages a variety of housing densities and product types which promote transient transit and pedestrian activity. The site’s proximity to employment and shopping could promote such activity. Now while there are general elements of the comprehensive plan that would support this development, the project is not in conformance with other more specific goals, objectives and policies of the comprehensive plan. Policy 8.1.1 3.12 states the properties on the South side of Overland Road north of the planned community designation are intended for subdivision and development at densities between 2 and 4 units per acre. The residential portion of this planned development approaches 9 units per acre. As you can see here the property is designated as a state density residential. 3 dwellings per acre on the land use map. While Planning and Zoning Commission did recommend approval of the rezone to N O, Council has not taken final action. The N O zone was never…staff is also concerned with the N O zone as it was never intended to support residential densities beyond what was envisioned on the land use map. This is evident in the fact that both the R-1C and R-2 zones are not listed as permissible zoning designations in the current land use designation. I know we are beyond your action on the rezone but again the same density is before you this evening. Regarding compatibility staff recognizes that the office uses in this proposed development have been appropriately located along Overland Road with parking located behind the structures. However we are still concerned with compatibility with the residential portion of this project. The proposed lots are about one third the size of adjoining parcels and the bulk and the mass of the buildings are still significantly greater than the single family dwellings that essentially surround the project. Regarding amenities, this was a concern with the previous submittal. The applicant has indicated that two of the amenities will be provided. The first in the form of a picnic area located in this common lot and the second thru energy efficient construction standards. There is also a second open space lot here that is larger than before that could provide additional amenities and the rear of each of these units with some fencing could provide a private back yard to a lot of the units on the perimeter of the project. I would like to mention some comments that you’ll see in your packet from the airport. When the rezone request was heard the airport did not object to this request. However on revisiting the request they have raised concern with the additional residential density in this location. I contacted them and the email is in your packet as well and they simply indicated that they looked at the project and have some concerns. So in conclusion staff recognizes that there are positive aspects of the project. The site is large enough to accommodate the proposed use. However due to the concerns with compatibility and conflicts with the specific policies of the comprehensive plan we are still recommending denial of this application.

Chairman: Thank you. Any questions for staff?

Commissioner Russell: Madam chairman. I’ve got a question for Cody. I was curious first of all does the airport have a certain target density that they would like to meet in this area?
Boise City Planning & Zoning Commission
Minutes of
November 13, 2006
Page 15

C. Riddle: No this sight is located within airport influence area A. They do typically require soundproofing things of that nature but there is no code requirement for limits on density at all. There comments are simply that they want to limit the number of people exposed to the noise associated with the airport because they do receive complaints.

Commissioner Russell: Second question I guess I lost you a little bit when you were explaining the densities in the N O zone. Is there not a recommended or desired density in the N O zone?

C. Riddle: The density the applicant has requested is allowed in the N O zone. However the N O zone and the recommendation on the rezone has already gone forward. I was just indicating that the density proposed in this situation is not consistent with the land use map and made reference to the consistency matrix that ties in with the specific policies that do apply to this area.

Chairman: Having received no further questions for staff, turned time over to the applicant.

Scott Beachum: 405 S. 8th Street – I would again like to thank staff for the work on this project we are still not quite on the same page but we have certainly had a good conversation around it and a lot of time and energy has been put into it. I would like to thank the neighbors as well. Again not on the same page but they are here tonight and have logged many hours in this deal and I know we do this for a living but they don’t and its, we just want to recognize that. We are here with a new application that takes into consideration the comments and testimony from the previous hearing. Staff comments and an additional neighborhood meeting that we had. What we are presenting tonight is in my opinion is a much better project. In hind sight they were happy with the way that this has progressed. It is a better project than the original even though we obviously did support that and that project was pretty fine. Staff has presented the issues from the proposal so I’m going to jump straight into the modifications that we have made. As with most infill projects density is clearly the main issue surrounding it. I would like to address the other issues first and come back to density at the end if I could. If I could start out with the site plan it has a slight configuration, rather than have the 4 units attached back to back we went to the auto courts configuration. What this does is effectively brake up the massing of the housing product. It also kinda raps around the auto influence I guess and with that auto court we can minimize the impact on the adjacent properties. As well as our own project what we’ve got here is 8 curb cuts effectively for 32 units so we’ve really been able to enhance the street scene with this site plan. The use of the alternate floor plan allows us to provide for increase setbacks throughout the project. Cody mentioned this. What we are showing there is 30 foot rear yard setbacks on the East and West boundaries. The Southern boundary this rendering actually still shows it at 15 feet. Largely because that is the rear setback and largely because of the existing sub street. With approval by the commission we can actually slide that 4 unit cluster forward 5 feet and get to 20 feet. In the worst case scenario that’s the tightest part of this sight. If you go to the bottom left hand corner – to the Southeast corner we’re actually closer to 35 feet for the rear yard setback. But again by using this product what we have done is increased the amount of open space but also the function of the open space. Cody eluded to private rear yard areas with a
little bit of fencing. We would like to keep it visually open but some low fencing I think would be a nice amenity to a homeowner. By our calculations our engineer’s calculations we are at about 35% of the site in landscaping including our site amenity. Our landscaping areas at both terminences of the roadway we have Southerland coming in from the top of the page there and then we have Park Avenue through the middle. The product will also allow for height modulation what we are showing here has single story elements as well as two story elements. One of the comments we heard at the last hearing was a concern of having a wall basically right in the back yard or side yard of some of these adjacent properties. Stepping down at the garages and having the living area that is within the roof structure look to the front we have kept it away from the rear and so effectively you’ll see on the right of this a two story element going backwards stepping down to the single story and then two story element again. I believe you have the other elevations in your packet. Again open space has been increased dramatically the streets have been benefited from it the neighbors have benefited from it. When you consider with the floor plans and room placement along with the increased set back and the increased landscaping we think it really affords great privacy to the neighboring properties and quite frankly that is one of the things we think is very compelling about this. A seemingly simple change has resulted in a pretty significant benefit. Another issue that we talked about in the previous hearing is transportation and street connectivity. I believe it was Commissioner Russell at the time asked why we would propose a street connection to Overland at this location but not on the application we had the east of this. Again it is because of the mix of land uses as well as City and ACHD policy. Our concern remains and I believe the neighbors will speak to this as well you’ve got a very direct shot coming in from Five Mile on the West and up through our site down Southerland North on our property and then down Overland. If you get any sort of backup or delay on Five Mile we are concerned this could be a cut through route. So what we have done here if you could refer back to your site plan is we have tried to implement some choking I guess traffic common features and choke down to block it visually as well as provide a clear transition I think. It would be of great benefit as you are traveling down Southerland or looking down it from Overland it provides a sense of intimacy to this and we think it would discourage some of that cut through traffic. I’ll go to quickly a couple of questions that came up previously. With regard to the airport, we’ve spoken with the airport on this. Our understanding is similar to staff and we want to make it very clear that they do generate noise and it is our understanding that they are trying to get teeth in approvals that allow them to require notes on the plats and such. In this particular zone there is not a limit on density but there is a noise reduction goal. Our efforts towards energy efficient construction would basically solve that problem on its own. We will at a minimum reduce by 25 decibels. The next item was the N-O zone. It does allow for residential development through the CUP process. And it is our understanding from the pre-application meeting forward that the purpose of that CUP process is to insure capability. You can have a residential development at approximately the same intensity as an office development if you take appropriate design measures to assure that compatibility. And we think we have done that here. So this brings us to design and clearly this is a tricky issue. We are in a position of trying to provide for a logical transitional land use. We’ve got traditional neighbors to the North and to the East or the West rather. Just like the land use map showing us in the middle of an R-3 area zoning has already been established for limited office to the West of us. We’ve got
commercial with Schucks Auto Parts to the North of us. Our office lots I think start this transition and then with respect to the existing residential neighborhood we thought a well-designed residential product that really tried to look toward the interior which half of our home sites do look to the interior street and just half of them are on the perimeter we thought this was a good transition. The difficulty here is to try and put rooftops close to services and allow for services to be provided efficiently. We do have employment we do have recreation, we do have shopping. We think quite frankly this is an appropriate place for a little bit of density with 8.8 units per acre this is just above the maximum threshold of the low density zone so we don’t think we are asking for too much density and with all due respect the commission we did hear your comments at the last hearing and really we are coming back here on principle. We need to I think as a community start developing more appropriately. Put more rooftop where they should be. We think this is a good site for it. We think it will provide the opportunity to have bus service in the future if we continue to grow in this manner and the other benefits that come along with that. At this time I will stand for questions and I would like to turn over the remainder of my time to Frank Lee.

Chairman: Alright so you want to have Frank take over?

Applicant: Yes.

Chairman: Okay.

Frank Lee – 601 W. Bannock Street. Scott has talked a little bit about addressing some of the issues that were raised at the last hearing related to the last project. We’ve listened and we have produced a substantially different project that we like much better. In fact we would have proposed it in the first instance had we thought about all those matters as well. And it is another example of good design enabling livable density and enabling compatibility. And some of you heard me beat the drum of good design being the future of a zoning ordinance and I think this is a good example of good design enabling some of the densities that we need as a City to grow as we as a City envision ourselves growing. I’m here primarily to talk about the comprehensive plan and some of the other aspects of what staff has talked about in terms of their decision to recommend denial of this project. Staff has acknowledged that certain elements of the comprehensive plan support this project but then staff has recommended denial because primarily two elements of the comprehensive plan they feel don’t support this particular project and I want to talk about those because those are two prime examples of why comprehensive plans are broad governing documents intended to be viewed at the 30,000 feet level and why those two considerations as they apply to this particular project really don’t fit within what those comprehensive plan policies were really looking for. And in fact when you consider the influences that are the greatest of the influences on this site and the needs of this particular area, you can see that the comprehensive plan actually does support this conditional use permit. The first policy offered by staff is policy 8.1.13.2 supports lower densities because the policy says that those areas south of Overland Road ought to have densities that are lower than this mid-density project but that’s not, this project is truly influence and it is part of and separable from

...
the influence of Overland Road which is future 7 lane road and when the comprehensive plan authors were thinking in terms of South of Overland Road I don’t believe that they were envisioning this particular parcel adjacent to Overland Road who’s influence or where the influence of Overland is so great that it takes it out of the sort of theme that you expect and quite appropriately apply to those areas further South that are separated from that heavy traffic, heavy commercial, high use area and the medium density that we are proposing is appropriate for an adjacency to Overland Road. Second the land use map contemplates that this property would be estate residential which is potentially a lower density than what we are proposing but again you know viewed as a comprehensive plan ought to be viewed at a higher level you will find that this project site now barely fits within the R-3 no I’m sorry the estate residential that in fact is on the edge. And when you view the edge in terms of influence well the greater of influence is adjacency to the community activity center which is Five Mile and Overland. This parcel is needed to make that work. This parcel is needed to activate that and turn it into what it is intended. It is right adjacent to it, we’ve got a Schucks to the West, we’ve got medium density projects like this going on across the street. Influence is that activity center and in this particular case when a property is on the edge look at the greater of the influences and here the greater of the influences and the inference that should really govern the decision you are going to make here tonight is the activity center. And as appropriate and as staff has pointed out Policy 8.1.3 encourages higher residential density near work places like we are, near shopping like we are, near the commercial activity centers like we are adjacent to and along heavily traveled routes and especially routes that can become travel routes like this has been in the past and probably will be in the future. Further this is really supported by important planning considerations. For example one of the things that we have tried to do as a community is enable people to move from housing stop to another and still stay within their neighborhood. One of the underserved housing stocks in this particular neighborhood is this smaller units that are more appropriate for young professionals without families, older people whose families have moved out. Kind of a this sort of product doesn’t require doesn’t require a big yard, doesn’t require a lot of maintenance but this particular type of housing stock is nearly absent in this particular area and it is appropriate to locate this kind of housing stock near the activity centers and it is appropriate to locate those in neighborhoods such that people can move out of the bigger homes into something that better suits their needs without leaving their neighborhood and that’s a very important consideration for Boise as it starts to grow. And again an important planning consideration is that this area used to be along the transit route that was useable. It’s not really a transit area anymore it needs this kind of density to put enough bodies near this area so that transit again becomes a viable option and there isn’t a better place than right here at the transition. At the place between the prior existing homes and the activity center. At the last hearing there was a suggestion to reduce density. And that is a suggestion that we have very much considered um what is happen when you reduce the density and there’s a suggestion of taking it down to 24 units and you know to give an example if you have your some of your drawings up there. Some of the examples to reduce it from 32 to 24 would simply be to take one of these units and on both sides and just eliminate it. What would you do under those circumstances, well you would scoot some of these units, maybe scoot this unit up and you would have a little bit more space between the units but really what does it do? Well for one thing this really wouldn’t work for the kind of small units
that we are envisioning and we think that the market wants. These would probably end up being larger units with more space to put them in and that would probably take this property out of the housing stock market that we are focusing on and that would be a loss of housing diversion option in this particular neighborhood. Such units would probably be more family units, would create more traffic and on balance all matters considered I think the smaller larger units if they appeal to families in particular would probably create as much possibly more traffic than the existing units in terms of sort of a lock and leave sort of a product. I think that not hitting that medium density near this activity center won’t help activate it. I think it needs that density that we have proposed. And um and a really important factor is I don’t think that taking the density down 8 units for example you could use other things, would change the relationship between the buildings and neighbors wouldn’t necessarily change the heights of the buildings or the proximities of the buildings to the neighboring properties. Um density is not just a number you know density is something that needs to reviewed on the site on the ground as designed, as built and through good design you can get density that is perceived to be less dense and is actually because you have designed it with the various considerations and you have um um through thoughtful design achieved a product that I think meets the considerations that I think we as a community want and this sort of product. And so I don’t believe, we don’t believe that reducing the density for example from 32 units down to 24 will result in materially the product for the neighborhood from a traffic perspective or from a City perspective. And to sum up very quickly I think that we listened to the commission at the last hearing. We have produced a design that reflects those items and as to the one issues that we that has been contentious we have carefully thought about it we have revised our plan to address some of those issues and we think we have produced a product that supports this area, supports the activity center, addresses Overland Road and is the type of product that is right for this area and for Boise. So with that I will stand for questions.

Chairman: Any questions for staff or applicant at this point? Nothing. Okay then we will go to the sign up list. First I have Joyce Barcus. Just for the record we are in receipt of the letter from Joyce and Pete Barcus. We received that at our pre-meeting today.

Joyce Barcus – Madam Chairman and commissioners, good evening. We couldn’t disagree more, I’m sorry. I have a question though first off and that is on the left hand portion of that map you have not gotten an accurate picture of our neighborhood by the way. The Five Mile Creek runs through that. Does the 15 foot setback on the end of that property include the creek?

Chairman: We’ll ask staff to address that once you are through so to not take away from your time.

Joyce - Our neighborhood is bounded by Maple Grove on the East, Five Mile on the West, Victory Road on the South and Overland on the North. And we are under the Boise City Comprehensive Plan we are separate and apart from Overland to the North that is higher density and there is more of an activity center. We have to my knowledge we have 4 churches within our boundaries and the strip mall on the corner, the strip mall is a small one it was designed, it
backs on the neighborhood with privacy fences and the creek between part of it and then the 2nd
Baptist Church buffers the L shaped part of the strip mall from the neighborhood and so we are
buffered and with the neighborhood offices that front on Overland and the two proposed
neighborhood offices that front on Overland we will be further buffered from Overland and from
any higher density across the street. What they are proposing and what we are hearing is high
density, entry level, low income housing. That is not what our neighborhood is about there not
another piece of property available in our neighborhood to build anything like this. We are
entirely single family residences and there aren’t any entry level homes in our area that are
cheap, not well built. It is not in the density is not planned for in the comprehensive plan and we
would urge you to stick with that and not render that comprehensive plan for our area impotent.
Um it is not compatible with our neighborhood and it’s not right, we don’t want the density. We
don’t mind the growth we applaud the fact that they are going to do something with the property
and that we will have some growth and probably hopefully something that we can benefit from
in the offices but it is not compatible with our neighborhood and we would ask that you not
approve this density. Two neighborhood offices and with 3 plus acres left, approximately 3 ½
acres and the comprehensive plan that would allow for 10 to 15 homes and you know while we
would like to see one home per acre we understand your duty to promote growth and the tax
based growth and we understand their need to make a profit and turn this into something that
they can live with. But the property two blocks down from our house, they did propose 17
houses on 5 acres and you okayed that and we know that they are making a profit on that. So we
know with 2 neighborhood offices and far fewer units they can make a profit so we hope that we
can arrive at something that is compatible to both of us. Thank you for your time.

Chairman: Thank you. Frank Norburry.

Madam chair, commissioners thank you. Um I’ll be honest with you.

Chairman: I need you to state your name and address for the record.

Frank Norburry – 1677 South Bentrock Avenue. I did come with a nice prepared speech because
I knew I had 3 minutes but after listening to Scott and Frank I think I have to change it a little bit.
What I would like the commission to do is support the staff in this particular case. Staff has done
great professional work in my opinion, they have produced a great document that outlines in my
opinion something that is consistent with Boise City Comprehensive Plan. It is consistent also
with what the commission, planning and zoning would like to see and also what the neighbors
would like to see. Everything is consistent and lined up there. Staff has done their work and
done it well. I ask that you support the staff. Now listening to Scott and Frank here I’ve had to
change a little bit of my speech here in the fact that yes they are talking about a vision. When
they came to talk to us they were talking about their vision of our neighborhood, it wasn’t a two
way conversation. This is what your neighborhood needs, this is what you need in your
neighborhood. Well thank you very much guys and then I just heard them stand up here and tell
you what their vision of your city is. And to me it went from irritating to almost insulting to
listen to what they had to say. Now they started off as Conger Group during the first submission
back in September now they are calling themselves. What are you now Scott? (Tape did not pick up what Scott said). Right so I’m sure they are going to be back because again what they have done…where I come from, I’m not from Boise I’m from the South and if you are going to take a pig to the dance and hope that nobody notices you know what you dress it up real purty, put the pig in a dress and lipstick on it and hope nobody notices but you know what you still got a pig in a dress. And what they’ve done is they have taken their 32 residential unit and their 2 offices and they’ve taken that pig and they’ve dressed it up and then they’ve brought it into the dance again and say “Boy I hope nobody notices” but you know what that’s still a pig in a dress, it has not changed and he can sit up here and cheerlead for himself and his group and say yes I have listened to the staff, and I listened to what you said and you know what they come in with the same plan. And if you continue to do the same thing and expect the same results what is that? Its insanity and I’m not going to support that. So what I’m going to request is that the commission support the staff and the denial of this CUP. Thank you.

Chairman: Thank you. Richard Mickey.

Richard Mickey – 1661 S. Bentrock Ave. – In fact I live next door to Frank Norburry and I can’t add much more to what Frank just said to you. Choking it is not the answer. Anyway this permit would go contrary to the desires of the City of Boise as stated in the comprehensive plan for this area. This well designed comprehensive plan is taking into account properties and densities currently existing in the current use of the property. There is a distinct division created in this plan which separates the North and South side of Overland Road. The North side is intended for development at a much higher residential unit per acre rate and the South is set apart for more of a rural atmosphere. Overland Road currently is a well defined border which is intended on becoming larger by extension of the roadway. The office development along the roadway further separates the residential units situated behind these offices on each side of the roadway. There have been terms such as transition used in supporting this proposition that a multi unit development on the South side of Overland Road would fit into the development on the North side of Overland Road. This is simply not the case and the great physical separation between the North and South side of Overland would result in an island of densely developed residential area, isolated within a well designed single family residential subdivision. The neighbors to this compacted residential development would pay for it in decreased home values, additional traffic, less privacy and more accidents. The only winners to this proposal would be the increased profits realized by the developers by having more residential units per acre. I hope that you will deny this request and keep the aesthetic quality as it now is on the South side of Overland Road as proposed by the City of Boise comprehensive plan. Thank you.

Chairman: Thank you. Mr. Doyle.

Frank Doyle – 10146 Countryman – Which is just around the corner from where they are going to put this in. I have several concerns I built my house there 19 years ago and at that time you had to have a house, it had to be a certain size and all the lots were my lot is either .124 or .29 I can’t remember which but I was the first one on that section of the subdivision when I started
building my house. And it stopped at Gold King at that time then when they started building on Gold King and everything the lots were smaller but the houses were probably more expensive than what they were in my area. If they put this in here I can see a couple of problems. Number one is traffic as the other gentlemen were saying, on Southerland Drive I use that all the time, I go out Countryman, go down Southerland because I can’t get across Overland. If you are going to make a left hand turn like your going to go towards Meridian and your going to sit there at the corner of Countryman a lot of times for 4 or 5 minutes trying to get across. And then you may have to shoot out there to get into the middle lane and then wait to get in. Now if you are going to make a right hand turn to head towards town you can git out. But crossing Overland, I go down Southerland and I’ll have to say Southerland a lot of people park extra cars on the street and it’s not that wide of a street but you have cars on one side you may have a boat on the other side and the increased traffic isn’t going to work. There is going to be a problem sooner or later. There is something else, the kids I would imagine these houses are going to have families which is going to have kids. There is no place for those kids to play unless they are going to play out in the street. There is a park as it shows in there by Quail Stone but I believe that park is a private park and the upkeep is maintained by the people that live around it. If there is 32 families in there and say there’s 15 kids that’s going to be where there gonna wanna go play and that’s going to be a problem. Now there is another park just a block away and it’s the same thing, it’s a private park, it’s paid for the upkeep by the people who live in that area. You leave, you go down Countryman and you make a right hand turn to go into that new housing area there you’ve got a completely different type of house. I mean it’s all single family houses in our area which you’ve heard before and to go into that area, that’s a big shock. I have friends that live in areas like that and they say the turn over in those houses is something else. People be there a year, 2 years and they go out. And a but I support what everybody else has said and I wish that you would deny that. Thank you.

Chairman: Thank you. Kathy.

My name is Kathy Ford. I reside at 10244 Countryman and I came to this meeting tonight and this is first one I’ve been to. I’ve a fairly new neighbor in that neighborhood complex. And I did hear about the development proposal and um I’m not in agreement with that. I think it takes away from the single family dwellings that are around that surround that whole area and I think the density is way to high for this part of Overland I don’t know South of Overland area and so I’m just, I’m here to support the rest of my fellow neighbors and to support the staff’s recommendations and hope that you will consider that in light of everything.

Chairman: Thank you. Amy

Hi my name Amy Weatherly, I reside at 10070 West Crestwater – 83709. And I’m just here tonight along with my neighbors to say I do not support this measure for all the same reasons they’ve said as well. Maybe not as colorfully as some people have put it but I am against it and want to go on record for that. Thank you for your time.
Chairman: Thank you. Bryce.

My name is Bryce Porter – 10222 Molly Court which is…I’ve lived there for 22 years and would like to be there a lot longer. Which is the south boundary of the proposed development on the West side. My is the area that is not improved by their additional set back. Mine was not a a setback was not increased. The argument that it blends with what is North of Overland which is a 5 lane street does not settle with me the the development does not blend, it does blend with what is on the other side of Overland however it does not blend with what is adjacent, immediately adjacent to roughly 80% of this boundary and a I I would simply echo that which the others have said that I believe the density and design where they are all uniform a roof lines of roughly 28 feet a does not blend with that area. Thank you.

Chairman: Thank you. That’s it for the sign up sheet is there anyone else that would like to testify? Please come forward.

My name is Arun Lokanathan and I live on 1693 South Bentrock Avenue. A I’m not opposed to the developer developing my piece of property but I am opposed to them developing it at the density that is proposed. Something tasteful on that lot would be nice but not at the density proposed. Um he was quite eloquent on the benefits of density for an area like Boise and I can see that. I just hate to be the single row of houses singled out in the entire neighborhood that was put face to face with this higher density. If you have one among any in a denser neighborhood that would be a different thing. Thanks.

Chairman: And could I have you fill out the form on the podium there since you didn’t sign in we like to have both written and verbal confirmation of who you are for the record. Thanks. Sir

Hi my name is Wayne Kenning I live at 10266 Southerland Drive. I’m not directly affected by this but then again I am. I don’t see anyway that this proposed deal is going to help our neighborhood which is what is proposed by this a um project and I can not abide with the reasons that they are giving for their idea of this. For us it is going to raise values I don’t see it at all I just see more traffic, more noise, increased everything. And I would ask that maybe one of them could come and live in by my house and go and live there. I would love see how they would handle it cause they are just making light of it. I object to that. I echo everything that has been said here and more. I would like to go on but I won’t. I just want to go down on the record as agreeing with the rejection of this proposal. Thank you.

Chairman – Thank you. Anyone else wishing to testify this evening? No response. Alright next we will go to questions and a Cody I was wondering if first you could take up the question brought up by Joyce Barcus about the irrigation canal?

C. Riddle - Madam Chair, it’s hard to even see from the photo. The blue line is actually a layer in our mapping system. Setback on that property line is measured along that boundary is measured from the property line the irrigation ditch as near as I can tell from visiting the site is
essentially on the property line or very close to it. So the ditch would be included in the setback area.

Chairman – Thank you! Okay other questions for the staff or applicant? No response. This is your big chance commissioners. Alright if there are no questions then we will go to closing comments by staff.

Cody Riddle: Madam Chair I would just like to request that if the commission decides to indeed deny their request if you could please state for the record how the applicant could possibly obtain approval of a project at this location and if you would um and if you decide to approve the project direct staff to return um at the second hearing in December with findings and we would also need to then obviously draft recommendation for approval for your review.

Chairman: Okay then a we will close the hearing with rebuttal from the applicant.

Applicant: Thank you madam chairman, members of the commission. Um I’m starting to think that a I may be insane. I do find myself in this situation repeatedly and a I do want to make it very clear that I do not mean to make light of this or any other thing before you. We do this because we truly believe in it. We do respect the impact on the neighbors. I will continue to hit my head against the wall if that is what it takes, but it is important I think for more of your community. I don’t mean to force my perception of what the City of Boise should be down anybody’s throat specifically the neighbors with this particular property. With the proposal we are not high density and not entry level. I know you know that and I think the neighbors know that. We have spent a lot of time and put together some nice plans. We can argue the specific policies of the comprehensive plan in any direction but we need to consider the general context. And I think that is important. We are under the same influences as the properties North of Overland Road. Again Frank talked at length about the generalized I guess goals and policies of the comprehensive plan um project to project you can argue different positions that’s that’s the challenge about this. The challenge for you guys it’s a challenge for us. Um for example our project on Water Silk it’s a product of it’s environment this is a 600 feet to the East. What was different there we were entirely surrounded by single family residential um of course there is a whole other aspect with regards to financial circumstances with that. But to say we did um low density single family in that location we should do it in this location it should work is not accurate, we’ve got very different factors surrounding us here. Um Five Mile Creek that’s actually drainage it is not Five Mile Creek and Dave correct me if I’m wrong on that um it is piped on either side of our property and if approved we would be required to pipe that across the back of the property. There is no easement apparent through the title report or any other um observations we had on the property. Um in closing I would request approval of this again we’ve gone to great lengths, it’s our job so I’m not asking for special consideration but we think we have put together a good project. I just came back from touring 3 of the top projects award winning projects from this years builders show. This fits right with all of these I mean we are um it’s a good project it’s great architecture, we are very excited about it and we think it can be a great addition to the community and that’s the larger community I understand people that would
like to see like project across their fence but it doesn’t always work that way and with respect to
the neighbors and the commission I would ask for your approval tonight and stand for any
questions.

Chairman – Thank you. That concludes the public hearing portion of our program and now you
can deliberate toward a decision.

(Someone raised their hand) Chairman: Sorry but the public hearing portion is closed at this
time.

Madam Chair.

Chairman: Commissioner Russell

I would like to make a Motion that we deny CUP06-00099. Second. Chairman: We have a
motion and a second, discussion?

Commissioner Russell: I guess no it’s a I remember this project the last time it came through
and I think we looked pretty hard. I think one of the big issues that the commission had that
evening was the density and I think that a we heard from some of the same residents that were
here tonight and we had some concerns with the effects of the buildings and their facades were
going to have on the adjacent residential areas and we were concerned by just the overall people
that might be in that space on a daily basis living there. And I think we were also a little bit
concerned about the fact that this is a completely different housing product from what is next
door and from what exists on Southland Drive and the area to the East. That evening I was kind
of the opinion that with a little bit of a building design change and a little bit of density reduction
I believe mentioned 24 units was my statement. And I think I even made a motion initially to
approve it with reduced density but we decided not to do that because we were concerned about
the site plan not being approved by the commission so we decided to outright deny it but that
evening I was kind of of the frame of mind that 24 units might work on this site and I’ll be
honest after hearing some more testimony from neighbors tonight and looking at this thing again
I’m not sure the 24 units is the issue or is acceptable I should say. One of the things that I guess
 kinda stricks me is that we’ve seen a lot of applications come before the commission recently on
this Overland corridor and you know sometimes we will approve a use that we see being low
impact to some adjacent neighbors and think that it is a good thing to do for the zone in this kind
of high traffic corridor and on properties that are zoned for commercial uses and things like that
and we have approved and have had them overturned by City Council um just the other or last
week we had a hotel that was completely surrounded by commercial and office uses that we
denied it was going to have 50 rooms in it and in my opinion a lot lower impact than a 32 in a
residential area. We denied that and it was on Overland Road and one of the big reasons that we
denied it was because of some height issues and some impacts that we thought were going that it
was going to have on the neighbors. My opinion of that project was it was going to have zero
impact on the neighbors in that area. But this project I think it is going to have a lot of impact on
the people who have been living there for close to 19 years and I think that 32 units is a bit much to have in these folks back yards and I think that the choke down there between the residential and the commercial area is pretty much a joke as far as doing anything for traffic. I understand what you are trying to do I don’t fault you for coming up with that idea but as far as calming traffic it’s not going to do anything. I agree with the other gentleman it’s just going to create a little dangerous narrow spot in the road. Um you know there is other ways to calm traffic if that’s the real intention here. But I guess just all in all I think that I have a hard time finding that this development does not adversely affect the adjacent residential properties and so that is why I made the motion and I’m going to vote against it. I think that a you know there definitely needs to be a lower density here um I’m not going to state for the record what that might be but I think something that’s a little more similar to the surrounding residences so that’s all I have to say on the matter at this point.

Madam Chairman

Chairman: Commissioner Ellsworth.

Commissioner Ellsworth: I’m going to go ahead and support the motion to deny. I agree with a lot of the comments that Commissioner Russell stated. I wasn’t here for the first go around but I just have a couple of comments. I do think the applicant made some good comments as far as things that did come out in the comprehensive plan that could support this so I’ll talk about that just briefly. I do think it is important to add different stock to the housing stock or diversity to the housing stock and this project would do that and I do think that that this is a unique area in that it is surrounded by Overland and to the West you’ve got some commercial and some office going in that is already there and zoned for that and I think that’s probably why the commissioners decided that this would be a it would be a different zone and suggested a different zone for this neighborhood office. So I do think that this is a property that should transition from those other uses being Overland Road, North of Overland and to the West into this older neighborhood. What kinda sticks out for me is it just kinda gets into the neighborhood a little bit too far so I guess following staff’s suggestion I was just looking at this thinking if you came back with something, the office is fine, then you could do some medium density on this third of the property and then transition into lower density back here. I think that would fit into the neighborhood much better than just having the same housing stock down here. So suggesting to staff and maybe to the applicant that they come back with something that I could see happening. I don’t like to get into design but um since we were asked to do it.

Chairman: Further comments?

Commissioner Brunelle: I support the motion. I support the staff’s findings and further more I think that in addition to the compliance with the comprehensive plan sections that were sighted I think based on the evidence presented tonight and what’s in the record um I think there is an issue here of compatibility. I don’t think the evidence has been shown that this is compatible with the other uses in the general neighborhood. As for the applicant’s council raised I think a
pretty interesting argument and it’s the tension I think we have of the activity center nearby versus the South of Overland Road argument that we heard from some of the neighbors and thinking about both of those arguments um where I kinda come down on this is a the closer you get to Overland Road I can see neighborhood offices office buildings are compatible but as you move South away from Overland Road then I think that the comprehensive plan and policy trumps the activity center. Um this is an interesting parcel of land and it’s obviously got a major cul-de-sac to it and that is how you are going to access it. I think one of the immutable things in here is your going to have to have access off of Southland Drive at the other end of this project. You can’t just have a single cul-de-sac coming off of Overland Road. So if you start with that assumption that you are going to have a entry off Overland and off Southland one of the questions in my mind is what do you do on the south side of Southland between that and the existing development and I know one thing you don’t do is you don’t put 8 units between Southland and the neighborhood at the South end. You match up or you provide some sort of a transition it’s not 8 it’s less than 8 maybe it’s 3 or something. As you move North I think there are some options available especially in the areas where you don’t have neighbors backed up. It looks to me like you have some bare land just to the South of the of where you would have the office building on the West side of this parcel. And so maybe the design that you put together here would be a pretty good fit. As for the 3 four-plexes on the East side, my concern there is with what staff pointed as far as comprehensive plan policies dealing with bulk and size of the buildings in relation to what’s already in the neighborhood. And on there I couldn’t go with something like that because there are 100 foot long buildings you know backed up against single family homes and you have to break those up somehow. They are joined by neighboring garages, maybe you could split that up a bit and at least provide some sense of a that are compatible in size to the ones that exist out there in the neighborhood. So that’s my take on it as far as what I think might come back with a plan C.

Chairman: Further discussion?

Commissioner McLean: Well it’s been a while so I’m a little rusty at this but I’m gonna try to just take it. I actually am going to oppose the motion. And I’m somewhat torn because I understand what all of the residents are feeling I think because I’m trying to place this as to what if this happened in my neighborhood if something came in like this. For me I think the applicant has made a really good case on how this is compatible with from an umbrella perspective; the area and then in my mind actually the proximity to an activity center trumps in a way some of the other issues in the comp plan because we need to put people where the services are and you can bike ideally, naïve perhaps but you can bike or walk to this activity center without getting on Overland. Once your are home you could stay home and I think that we have got to be looking at the more. And with everything that is going on with the road and everything north of the road I think that you could come up with findings that say that this is compatible. I don’t agree that this will solve the transit problem or make it more likely that busses will get out there because there are a lot of people in the North and other places, they are taking our busses away unfortunately but there’s a big road there’s services and there’s lots a people that are wanting to come here and I think we have got to be looking at density if we have services that already exist.
Chairman: Thank you. Further discussions?

Commissioner Van Ocker: I’m going to kinda cue in on the architectural sides of this. You know when I look at this if we put a big wall around this I think it is great, I think it’s fun, I think it’s exciting. The architecture is a little too much. I think you have pulled out every architectural trick there is in the book and thrown it on there which could be down played a little bit. I think my biggest problem with it obviously is not necessarily the density but the density in this location. There is a huge difference in our communities from West Boise and East Boise. Whether you agree with it or not it is a cultural change, it’s an acceptance and this location I don’t think is going to be very successful, I think it’s too much. The activity center that you are talking about is a 25 year old strip mall that’s got a Hastings in it. It’s not a park, it’s not Ann Morrison, it’s not Julie Davis, it’s not East Boise, it’s not downtown, it’s not North End. I’m all for people jumping on their bikes goin and rentin videos, goin to dinner and doin that. I live in this part, I grew up right off of Five Mile, it doesn’t happen out there not like it should. If there was a big park there everyone could go to and a housing stock of this could be really successful and I would 100% support this because I really do appreciate the idea and I know where you guys are coming from. Any planning book in the world is going to speak to these kinds of things um and I think that some of the other commissioners have kind of talked about it. Maybe in small doses this is gonna start coming into our community. And potentially if we were to freeze it a little bit more to react a little better with the more traditional homes that you are trying to put this in then maybe it would be successful. 32 units I think is just going to be way too much just the logistics of it but I don’t want you to feels as though all your efforts are going unnoticed because I think that it really is an exciting project and I think you have put a lot of effort into it. I think it is probably just a little too much for this community, this part of our community. I would welcome something a little bit less cause I would be really excited to see how it would work so hopefully that comes back. I wasn’t here at the last meeting and I think they already mentioned that so this is maybe strike two.

Chairman: Any further discussion? Well I won’t be voting tonight because there are 5 commissioners so there’s absolutely no way that there’s going to be a tie but um one of the things that I’ve been thinking about is the development that we recently approved at Five Mile and Franklin which was one of these visionary leaps of faith. Where it was originally zoned industrial and we rezoned it to allow the developer to put in a transit oriented development because he is convinced that someday along this rail line there is going to be an actual train that takes people into downtown Boise and indeed we do have the right of way preserved for that and that is something that came up just this evening in the Depot Bench Neighborhood Association. And I really applauded that particular developer for coming forward with a plan that was so visionary and saw something there that you just don’t see right now. And so I think there are times when we need to take that leap of faith and say this is where we are going so let’s go ahead and give it a try, let’s go ahead and go there. But it sounds like from some of the other commissioners that this particular part of the community as Commissioner Van Ocker said, might not be ready for that. But we are running out of parcels in West Boise where we can do
these kinds of things. So, and take those little leaps of faith into what we think the city is going to look like. So that’s all I have so is there anything else? Nothing. Alright with that I will call for a vote and the motion is to deny CUP06-00099. All those in favor.

Votes were 4 yes (Andy Brunelle, Brian Ellsworth, Doug Russell, Lauren McLean) and 1 no (Amber Van Ocker).

Motion carries and the conditional use is denied. Next we will need a motion for the Subdivision.

Commissioner Russell: Madam Chair I move that we deny SUB06-70. Seconded.

Chairman: We have a motion and a second all those in favor.

Votes were 4 yes (Andy Brunelle, Brian Ellsworth, Doug Russell, Lauren McLean) and 1 no (Amber Van Ocker). Motion carries to deny Subdivision.

We don’t have any meeting minutes to approve.

Meeting adjourned.

Approved:

__________________________
Brandy Wilson, Chairman
Planning & Zoning Commission

Date:______________________
Planning & Zoning Commission
Hearing Minutes of
December 5, 2006

Commission Members Present
Gene Fadness/Chairman, Doug Cooper, Doug Russell, Brandy Wilson/Vice Chairman, Brian Ellsworth, Lauren McLean, Tony Orman, & Tony Blahd.

Staff Members Present
Susan Riggs, Cody Riddle, Scott Spjute, Joan Johnson, Lance Evans, Jennifer Tomlinson, Patricia Nilsson, Pam Engelhardt & Mary Watson (Legal).

Withdrawn from this Agenda

SUB06-00102 / LAUNCESTON RIDGE SUBDIVISION
This application will be heard at the January 8, 2007 commission hearing.

Consent Agenda

CVA05-00009 / TANA HEIGHTS, LLC / TIME EXTENSION
Location: 7150 W. Baron Avenue – TIME EXTENSION

CUP06-00091 / COURLY DEVELOPMENT, LLC / NEW FINDINGS

CUP06-00100 / IDAHO POWER COMPANY CUP06-00090 / IDAHO POWER COMPANY
Chairman Fadness: Is the applicant for item number 7 present tonight? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member of the public that came tonight to testify against item 7? There be no public opposition item 7 will be placed on the consent agenda.

CUP06-00106 / STEVE WYMAN
Location: 120 S. Peasley Street
Chairman Fadness: Is the applicant for # 8 present tonight? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member...
of the public that wishes to testify against item # 8. There being no public opposition item #8 will be placed on the consent agenda.

Chairman Fadness: Also proposed for the consent agenda is item #A.

**SUB06-00099 / ROOSEVELT CORNER CONDOMINIUMS**
Is the applicant for #A present tonight? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member of the public that wishes to testify against item #A. There being no public opposition item #A will be placed on the consent agenda.

Chairman Fadness: Item C.

**SUB06-00103 / TENTH & MAIN CONDOMINIUMS**
Is the applicant for # C present? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member of the public wishing to testify against item # C. There be no public opposition item #C will be placed on the consent agenda.

Chairman Fadness: And finally we have item D.

**SUB06-00106 / MORRISON PARK CONDOMINIUMS**
Is the applicant for item D present? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member of the public that wishes to testify against item D. There be no public opposition item D will be placed on the consent agenda.

Chairman Fadness: And with that commissioners I believe that’s all the items proposed for the consent agenda. And I would be ready to entertain a motion.

Commissioner Cooper: I will make the motion but first I would like to say that I actually need to recuse myself from voting on Agenda Item C due to a contractual relationship with the applicant.

Chairman Fadness: So noted.

Commissioner Cooper: So I can still make the motion I presume?

Chairman Fadness: Yes
Commissioner Cooper: Mr. Chairman I would like to recommend the following items from our consent agenda for approval by council. Stated the items above along with staff’s findings of fact conclusion of law and any conditions.

Motion and a second. Motion carries.

Deferrals

Chairman Fadness: We also have some deferrals I should have brought up earlier.

**CAR06-00069/ HIGHLAND DEVELOPMENT, LLC & SUB06-00109** – The applicant has requested a deferral to our January 8 meeting. Is there any member of the public who cam to testify on items 5 and 5a who would not be able to return to our January 8 meeting? Okay with that commissioners I would entertain a motion to defer.

Motion carries to defer both applications to a date certain of January 8.

Proposal to defer Items 9 and 9a.

**CUP06-00104 / AMALIA, LLC & SUB06-00105** – Is there any member of the public who cam to testify on items 9 and 9a who would not be able to return to our January 8 meeting to testify on these items? Okay with that commissioners I would entertain a motion to defer.

Motion carries to defer both applications to a date certain of January 8.

Regular Agenda

Chairman Fadness: Commissioners that now brings us to Item 3 on our agenda. As you may recall this was deferred from our November 6 meeting. **CAR06-00030 / BOISE STATE UNIVERSITY AND THIS IS A REQUEST FOR APPROVAL OF A ZONING ORDINANCE AMENDMENT CHAPTER 11-04-11 REGARDING REQUIREMENTS FOR THE UNIVERSITY ZONE.** Before we go into a staff report is there any member of the public who would testify on this item? There is someone. Okay then why don’t we continue Lance with a brief staff report.

Lance: Commissioner’s I will just briefly cover a few items on this and staff’s position and defer the remaining other time for the applicant to go into the details of the proposed code amendment. This is Boise State University is proposing to amend the University District zone. It is changing the boundaries slightly. Correction: It is not changing the boundaries it is changing several sections and staff and the applicant have worked over the last few months to address their concerns as well as trying to insure that the necessary applications are required and mitigation is
met through this code amendment so that the city and the neighbors to the area will be adequately protected. Staff is in favor of the proposed changes that are presented today and I’ll stand for any questions and defer to the applicant for code presentation.

Chairman Fadness: Okay thank you Lance, we will next hear from the applicant.

Commissioner Wilson: I just have a quick question for Lance before we move onto the applicant’s presentation. With regards to the parking issue; it looks the University desires to move to the Urban Land’s Institute parking structure where you measure your parking off the actual bodies on campus rather than just measuring parking by the buildings. But I’m just curious under the current scheme of measuring parking by buildings that’s in place right now is BSU considered to have a surplus of parking right now? Because that is something that in the staff report it says that under this new way of parking there would be a surplus of parking and I was just wondering if currently it was considered that way or if they were currently considered to be deficient in parking?

Lance Evans: Commissioner Wilson. I believe that they do meet our parking standards as we have required them to come in with each building. I have not gone through and checked each one of those to see where the situation is at so I could not say for sure 100% but I am pretty sure that they dol.

Commissioner Wilson: Okay well maybe it is something that the applicant can address as well when they begin theirs?

Chairman Fadness: Any further questions for Lance? No. We will now hear from the applicant.

Applicant: - Hi there can you hear me okay?

Chairman Fadness: We can.

Applicant: My name is Whitney Merrick, I’m the manager of facilities and space planning and Boise State and I’d like to take a moment to introduce the other folks from Boise State who are here with me. Vice President of Finance and Administration: Stacey Pearson, Associate Vice President of Planning and Facilities: James McGuire; Director of Parking and Public Safety: Jerad Everett and Associate General Counsel: Tim Furnside. I also wanted to take a moment and tell the Planning and Zoning Commission how great it has been to work with this staff. We have been at this for over a year and they have been very patient with us and I know you been patient with us too as we have deferred twice. So thanks a lot and I think we have a really good product I suppose. And to answer your question about the parking, currently the parking regulations for the U zone requires one parking space per student, it is actually linked to student load. But it does not appear to be based on anything. It appears frankly pretty arbitrary and given our current student load of about 18,000 students, I don’t think we have 18,000 parking so we probably don’t meet that. I think it was probably just generally tolerated that we don’t meet that because it
would be unreasonable for us to create that many parking spaces and totally unnecessary. So I’m going to go thru this very quickly, I’m not going to do my full presentation because from what I understand you have had some time to look this over and there weren’t any glaring concerns so I just wanted to point out and just to kinda give you the overall jest of it. Our goal here was to update the current U zone and to insure that the regulations that govern our growth are practical, reasonable and support development of an urban research and increasingly residential campus. As you know we have this new strategic direction to turn the campus into a more research oriented campus. And also one of the other issues that we are seeking to address here is the way we are developing. We are developing into the expansion area and while that means picking up a parcel here and a parcel there the current regulations didn’t allow us to sort of integrate that into a bigger whole, a bigger campus and I will just zip through this really quickly to show you what I’m talking about. (Put pictures up on the overhead of the campus) There is the campus boundary that Lance mentioned and that is new. The current zoning code does not outline that but now we have defined the boundary and what that does for us is it says there will be a 20 foot setback along these edges but internal rights of way we don’t have that 20 foot setback. So I think you have seen this expansion ownership map. We have kind of showed it quickly when we were talking about the parking garage a month or so ago. So this is (pointing to one overhead map) the orange are the areas that Boise State owns and this is 10 years ago in 1996 so you can see. And you see University Drive there, does everyone know where we are looking at here, there’s Lincoln and University and Broadway is over here. Then in 2001 and today. As you can see we own a great deal of this area so what we hoping these regulations will let us do is build at a higher density than we are currently, well we are currently allowed to but there is a lot of regulations that make it a little bit more of a challenge building that high of a density now. And we are hoping that it will allow us to feel more like a campus instead of one campus here and then little mini campuses. We want to have, we want to make it feel like a traditional college campus and right now the zoning code sees us as just another zone like any other zone in the city. So we want to be a traditional pedestrian research campus. And that’s just a picture of the master plan which you have all seen. And is by the way the goals and objectives of the master plan have been adopted by City Council into the Comprehensive Plan of the City. So you can see we want to make this into a contiguous parcel. So that is really what we are going for here. Any questions?

Chairman Fadness: Any questions? No. Thank you.

Fred Fritchman – 1321 Denver Avenue. I am testifying tonight representing the Southeast Neighborhood Association within whose boundaries Boise State University lies. In September a week before these changes were originally to be heard by the commission I testified before City Council on the BSU Master Plan which council elected not to adopt only the goals and objectives contained in the plan with a major change of leaving University Drive open rather than closing it as the Master Plan called for. One of BSU’s stated goals in their plan was for the University to be a good neighbor. Boise State’s University states their goal is to be a metropolitan research
university of distinction. Unfortunately they have not been a metropolitan neighbor of distinction. In the past and currently the university has marginalized their residential neighbors in many ways. Maintenance facilities are located between privately owned homes, modular offices plopped down on a block with no landscaping for years at a time and large expanses of dirt parking lots. All conditions created by the university that neighbors have had to live with. It is important that as BSU expands that its growth not come at the expense of its neighbors. In their negotiations with the city Boise State has generally sought more permissive developing standards and less oversight than the city has generally allowed. In fact the U zone changes before you tonight are more permissive than you would have heard on September 18. SENA feels that as BSU expands to its outer boundaries toward the adjacent neighbors it is more important than ever that public input and city review take place. This is not to be obstructionist. In the last two years for example BSU has applied to the city for height exceptions for 4 new buildings. SENA has not opposed any of them. The master plan will not likely be built in its entirety for many years. It is possible that the campus will be built quite differently from that plan. In fact on September 18th you approved a parking garage in a location one block north than the one proposed in the master plan. BSU may say that they have no plans to this, that or the other thing but priorities and plans can change over time and that is not anyone’s fault just a fact of life. But it makes it even more important for a process to be in place to provide proper input and oversight to BSU’s development. They are an urban campus sandwiched between downtown and an established neighborhood. Between now and BSU’s final build out will likely be many years if not decades of transition and change. How that transition is handled by the city and the university will affect the adjacent neighborhoods. SENA has 3 concerns with the proposed U zone changes. First BSU wants the freedom to build right to the property line internal to the campus not if the campus boundaries would a 20 foot setbacks would apply. The city would require landscaping such as trees and a minimum 5 foot sidewalk in the public right of way next to new buildings. In BSU expansion area only about 15 feet of right of way exists behind the current curb and the property line. I understand from the city forestry department that footings for the new parking garage will extend right up to the right of way line. SENA’s concern is if this abbreviated set back is sufficient to support the growth of street trees of any size and if it would require removal of good healthy trees. Second in the September 18th version of the U zone changes, BSU would have been required to seek administrative approval to develop projects between 50 and 300 feet of its boundaries. BSU now proposes that this level of review only applies to projects within 300 feet of Beacon Street. Beacon Street is only one boundary with the neighborhood beyond. SENA believes that the areas between Lincoln and Capital Blvd. need the same protection and review. Finally a major issue of SENA is the acres of temporary parking lots that have been created at the campus boundary. Neither the cities temporary or interim parking standards provide sufficient landscape buffering to adjacent neighborhoods. On page 13 of your staff report the final item from the comprehensive plan, item 10 states “a well maintained landscape buffer should be provided between university uses and adjacent residential areas to provide adequate screening of buildings and parking facilities. At this point I present to you photographs taken on September 17th the day before the postponed hearing of temporary BSU parking lots along Beacon Street the southern boundary of BSU’s expansion area and the northern edge of an established residential neighborhood.
Chairman Fadness: For the record we have received two sets of photographs. Each one is different so we have a total of how many Fred?

Fred Fritchman: I think there are 5 a piece. And these unimproved or marginally improved dirt parking lots not only degrade Boise State University but the neighborhood beyond which suffers the visual blight and dust of these on a daily basis. The lots do not integrate the university into the greater community rather they create the affect of BSU’s turning it’s back on its residential neighbors. The university achieves its parking requirements at the expense of those who live across Beacon Street. The lots do not comply with that section of the comprehensive plan I just quoted. With many of these proposed zoning changes such as the more permissive height limits and 0 lot line setbacks Boise State desires to essentially create its own on campus standards for development. SENA believes that a higher standard than the city’s temporary and interim parking lots needs to be applied to these temporary lots that border campus. SENA proposes that landscaping similar to that shown in the photo of the permanent parking lot that I just handed to be applied to these temporary lots. A depth of about 20 feet is required to create a burm of this scale. It should be sodden with at least 2 and ½ inch caliper trees on top or substantial evergreen shrubs. Also permanent parking lots should all be landscaped in the manner which might require more than the 10 foot setback required by the permanent parking lot standard. Additionally what is the fate of these lots in the photos that have already been created? How long will they be permitted to remain? They were created before any of these U zone changes we are discussing tonight. BSU has had temporary dirt parking lots in the same locations on campus for over 25 years. Thank you.

Chairman Fadness: Thank you. That is the only person I have on the sign up sheet on this item. Is there anyone else who did not sign up who would like to testify?

No one comes forward.

Chairman Fadness: Commissioners do you have any questions for staff or applicant?

Chairman Fadness: I guess I will start with a question for you Lance or maybe for the applicant excuse me. About the dirt parking lots.

Applicant: If it is okay with the commission I would like to have Jerad Everett answer that question.

Chairman Fadness: Sure

Thank you Mr. Chairman, Commissioners.

Chairman Fadness: First could you state your address and name for the record?
Yes. Jerad Everett – 2274 Elderberry.

Chairman Fadness: The question I had was…isn’t the reason for the parking garage that we just approved to get rid of most or all of those dirt parking lots?

Jerad Everett – The purpose of the garage is to make sure that as we are developing long term parking solutions that we are doing these permanent type solutions. So the concept of the parking garage is yes because these dirt parking lots, most of these have areas that we have planned buildings to occur on. Either buildings that are currently being designed, planned or buildings that area in various stages and I actually agree with Fred’s comments that when we are building permanent parking lots we should do that type of permanent landscaping as shown on the Denver lot. But that is not actually the issue here because if we knew we were going to have a parking lot on a permanent basis we would invest in those type of amenities. The whole purpose for having temporary or interim parking lots is because we are thereby agreeing under this code to limited uses of those parking lots be a two years for the temporary lot or 5 years for the interim lot. So on that basis alone that we are seeking temporary and interim lots means we are not building permanent parking in gravel lots. And if we were going to build permanent parking we would want to do those additional treatments. One of the reasons that I think the logic behind the 5 years on the interim lots, although I didn’t write that code, but that’s about the return on investment period for investing in pavement. If we knew for a fact that we were going to have a parking lot for more than 5 years, we would want to pave it because we are going to get that permanent ROI back. You know and as a public institution we think that is very important. If we were a standard developer we would be open to talking about flexing our profit margins to improve different amenities and so forth. To build a parking lot that we know is going to be there for 2 years and invest in pavement, concrete curbing and all this landscaping doesn’t make us very good stewards of public funds and I understand Mr. Fritchman’s concerns about some of these lots being there longer than 2 to 5 years and I agree with him. While I don’t know that there have been dirt lots for 25 years there have been 2 lots that I know of that have been there for 10 years. But at the same time I would say that these changes bring strength and validity to his argument. If he is concerned that these lots are going to be there forever then I would encourage you to approve these changes thereby committing the university to the 2 and 5 year windows on all of our lots.

Chairman Fadness: Thank you. Lance I have a question for you too. Mr. Fritchman expressed some concern about future public input and review. I do realize that if they have new height variances and more lenient setback requirements, what conditions if any would there have to be to require the university to come back for review or approval of anything within the campus. Would there still be more opportunity for public input for major university projects?

Lance Evans: Chairman Fadness the intent and some of the options that we have looked at for this code amendment have involved looking at the different uses that they are allowed and rather there should be conditional uses anywhere on campus, administrative uses anywhere on campus or within certain distance of the boundary. Because of the, I guess the well developed and
continued development south of Beacon, that is where our concerns and focus went to to provide them some extra protection. Certain uses, I mean a stadium or auditorium with 1000 seats, anywhere on campus a parking garage those things will all have to go through a conditional use process. And then there is a step back to those administrative approvals. In the administrative approval sections where we call out that 300 feet from Beacon Avenue the northern boundary of it that anything there be at least an administrative approval. Anything within 50 feet of the campus boundary as a whole will have to have a conditional use. It could just be a single family home that is just to the south. So we have tried to put those things in place to look at different uses that have a high impact and hopefully they will require a conditional use or if they start to get close to a neighborhood then they will also require a conditional use or administrative approval and we can look at those items.

Chairman Fadness: Okay thank you. Further questions for staff or applicant?

Commissioner Ellsworth: Could you show me where Lincoln is that was an area of concern. So how hard would it be for us to put the same condition on Lincoln and Capital Blvd as we have on Beacon and why wouldn’t we do that.

Lance Evans: Commissioner Ellsworth, excellent question and we looked at it quite a bit. In the initial drafts we were going to do a 50 or 300 foot buffer from the entire perimeter of the campus and that leaves such a small area we might as well require a conditional use or administrative approval for everything. We are trying to get away from that in this ordinance. We are trying to get away from the City having to review everything that’s on the inside of the campus. The areas close to Beacon we thought hey we still want to say if you are within 300 feet of Beacon. The areas along Lincoln and the continuation of University on the western part of campus we thought that we were okay and the impacts would not be as significant. In addition 300 feet would again mean everything would have to go through a conditional use or administrative approval and that would just defeat the purpose.

Commissioner Ellsworth: What is the current status of University Blvd, meaning that are they still planning to take it out of commission in certain areas for thicker traffic?

Lance Evans: As far as the City is concerned nothing like that has been adopted. When the master plan was adopted we adopted their 4 main goals and the objectives in each one of those and none of those mentioned that. Their master plan goes in and talks about how that is something that they would like to do possibly in the future but we don’t have a date or any indication of when that would be just a concept that would be looked at.

Commissioner Ellsworth: One more question, what is the minimum landscape width that would be allowed for a tree? (can not hear).

Lance Evans: Commissioner Ellsworth, I do not have that information with me and I don’t have it off the top of my head. I can look it up in the ordinance. It depends on the class of the tree.
1’s, 2’s, 3’s they can vary as necessary. We have discussed and worked with ACHD to get at least 8 feet for class 1 tree. I think that is correct.

Commissioner Ellsworth: This is proposing 5 feet is that correct for the internal?

Lance Evans: Commissioner Ellsworth yes. The code amendment is for a 5 foot minimum sidewalk. The code actually does not even specify what the minimum landscape would be trusting that Boise State would want to beautify their campus as they have done in other areas and so we have left that to the discretion of the property owner there.

Chairman Fadness: Further questions?

Commissioner Cooper: It is kind of a follow up I guess I think. What is printing of the existing ordinance with some revisions proposed by the university refers to the requirement for a 5 foot wide landscape buffer at the interim parking lots?

Lance Evans: Commissioner Ellsworth it is kind of a standard for any parking lot. In any development you need a 5 foot landscape buffer along right of ways.

Commissioner Cooper: My question involves some of the photos that Mr. Fritchman has given us where it looks like the required buffer has been planted but left and not maintained. And I guess my question for you is do you know if the landscape buffers that we have seen are being kept up according to standards as required by the city?

Lance Evans: Commissioner Cooper I haven’t gone out and done an analysis of that so no I don’t know.

Chairman Fadness: I wonder if a campus representative would be able to address that issue.

Jared Everett: I assume that the photos are referring to the block 10 which is the largest gravel parking lot facing Beacon.

Chairman Fadness: Oh here is one located directly across from Beacon there is actually 3 different, one at Michigan and Beacon and one at Vermont along Beacon Street.

Jared Everett: Well I would need to look at all the photos to be able to address all of them but I know that the largest parking lot out there which is what we call block 10 faces Beacon. That landscaping was installed recently by a contractor before the September photos. And the landscaping as it was installed we rejected it and did approve the installation because the trees were put in and immediately went into shock and there were other problems with the landscaping so that landscaping did deteriorate as the University refused to take ownership of the landscaping while we negotiated with the landscape contractor to reinstall an appropriate landscape and that’s the project that is being undergone more recently than those photos in September. The
contractor has been charged to improve that and the University is also working with the contractor to maintain it so. I mean we are committed to maintain the landscape that we are responsible for and if there are issues beyond that lot we can certainly address those with our staff.

Chairman Fadness: Thank you. Further questions? No response. Okay Lance, anything further to add?

Lance Evans: I guess I would just like to add that this code amendment is looking to take out the unnecessary requirements and the bureaucracy for the University in order to streamline that process. We have worked hard to try and mitigate those impacts and there has been a lot of compromising made on both sides so that we can get some assurances within reason of what’s going on and what will happen on the University. I think there is a lot of I’m not sure how well we have followed the ordinance in the past. I think there is a commitment from Boise State to follow this code and that is part of why we have had such long negotiations is they want it in a form that they are able to comply with and not just go essentially ignoring the ordinance.

Chairman Fadness: Does the applicant have any rebuttal?

Commissioner Russell: Mr. Chairman can I ask one more question?

Chairman Fadness: Certainly, go ahead.

Commissioner Russell: I was just curious, if you are looking at the dimensional standard section and you are talking about setbacks and required landscaping, is design review required to review that at all? Is this something I missed here? Does design review look at that or is pretty much that they made a dimensional standard, done deal?

Lance Evans: Commissioner Russell, none of the applications in the U district go to design review.

Commissioner Russell: There is one section in here where it is talking about these parking lots where there was a staff level review I believe. Let’s see, interim parking lots require review and approval. Is staff level design review. I didn’t find that same thing under the…

Lance Evans: Commissioner Russell, I’m sorry yes you are correct. Any application for the interim parking lot would have to go through a staff level and the design review staff is the staff that would look at and make sure that these standards are met. Actually this is a different section of the ordinance I was confused.

Commissioner Russell: So the parking lots would be required to go through that but not the buildings and the landscaping associated with the buildings like on the edge of the University zone?
Lance Evans: Commissioner Russell, I mean anything within 50 feet of the campus boundary will have to go through a conditional use. Anything 300 feet within the north right of way of Beacon Avenue will have to go through Administrative approval and then also Table 9A in Section 11-04-11.03 the Use Standards. That breaks out the different uses and any where on campus a parking garage is going to require conditional use. So hopefully big projects anywhere on campus might have an impact would get addressed in conditional use and then there is the second tear of administrative approvals of dormitories and parking lots you know different things would require administrative approval. That would have to go through zoning certificate and then it is just the third tear there is just the allowed uses. You know if they are building a University Office Building beyond 50 feet of the campus and more than 300 feet north of Beacon the City will not look at that through the planning process.

Chairman Fadness: Further questions? No response. Okay thank you. Does the applicant have any rebuttal? Are you with the applicant? Yes. Okay.

Chairman and Commissioners my name is Stacey Pearson. I’m the Vice President for finance and administration at Boise State University and I do ask on behalf of the…

Chairman Fadness: Excuse me could you state an address for the record?

Oh, 1602 North 17th.

Chairman Fadness: Thank you.

Stacey Pearson: On behalf of the administration at the university I do ask that you support these amendments. As you can see by our master plan we have attempted to establish the boundaries of the campus and in doing so attempt adequate urban density so that we can build our facilities and accommodate the students in the university programs and plans for research within those campus boundaries. As to the expansion zone between University and Beacon yes it is true that we have created some temporary parking there but we are already started on a parking deck on one of those blocks and two of the other blocks just last week received approval from the state board to begin construction of two other facilities so you will be seeing some changes in the near and far future that are consistent with the plan that we have presented here. Thank you.

Chairman Fadness: Okay. Does that conclude your rebuttal or…

Applicant: I just wanted to build on what Stacey was saying and just point out that I would invite Commissioner Russell to come to the University and look at it as well as any other commission members that want to. The campus is looking great and recently we have done a lot of improvements in the landscaping and the look and feel of the campus and the buildings that we are seeing that we are going to be building in the next few years they are great. They are going to look really great and are going to make a real urban campus. And all of this, the design
of it, the look of it and the landscape around it has been done without anybody forcing us to do that. We are doing that because we want to have a good campus and be an asset to the community so I just wanted to emphasis that we are not profit motivated. We are not here to make a fast buck. We are not trying to pull a fast one on anybody and so that is why we have agreed to increase public participation and I just wanted to emphasis that we are one owner so we have a lot more control. We have control over student behavior, we have control over the landscaping, the look and feel of the campus so its not. You know there has been some mention of loosening of rules but I think it is kind of the other way. We are one owner, it is not going to be a free for all and there are plenty of opportunities for the city to speak on and the community to speak on how they feel about all of these changes. Thanks

Chairman Fadness: Thank you. And with that commissioners I will close the public hearing portion and you may deliberate towards a decision.

Motion to approve CAR06-00030 and a second. Discussion.

Commissioner Russell: I support the majority of the changes that are proposed in this ordinance change but I do have a little bit of an issue with the dimensional standards section where it talks about the sidewalks being a minimum of 5 feet and the landscape strip shall either be including in the parkway strip on and on and then it talks about where appropriate landscaping requirements may be satisfied with tree wells, street furniture and/or planters and not include a landscape strip. I guess I think the intent there is good and I think the idea here is that you know if we have some space issues that we are dealing with and we can’t fit a landscape strip in here maybe we can get rid of it and maybe do some other street scape elements, implement them into the plan and achieve the same thing but I’m a little bit worried that this is a little bit loose and without you know there being some type of control over it, it could just become you know all concrete bench and one could argue that it meets the requirements of this section. And you know I think with that said I do kind of understand Mr. Fritchman’s concerns earlier about the fact that they just want the facility to look nice and I know BSU has made a lot of efforts and I think that the campus does look great but you know obviously by these photographs there are some areas that aren’t being maintained and I think that they need to be. I think that the letter of the code needs to be followed particularly with maintenance. I did notice that in some of these pictures if I am seeing them right that there are some gravel interim lots on campus that don’t even have landscaping buffers and I guess I’m just wondering if there shouldn’t be…you know typically I mean I understand some of these facilities are going to come before us in a conditional use but we never address landscaping in a conditional use situation we pretty much just look at it and see if it meets the intent and the requirements of the code and move it on along and I am just wondering if there is a way that we can require these things to go on to design review rather it be at a staff level or even if it is a full on design committee approval I don’t know but I think that there needs to be some type of audit looking at it and making sure that when these facilities to come in that we are looking at some pretty tight or reduced setbacks let’s just say and I’m just afraid that it could become a lot of wind tunnels with no landscaping. You know we dealt with this same thing on the parking deck earlier. I think there was some ideas tossed around to
eliminate landscaping altogether on some of the outside walls and we didn’t want that to happen, we wanted it to look nice but I’m not sure that the language her protects us on that one so I don’t have an issue there and then back to the maintenance of the landscaping. I understand the issues that you are dealing with with contractors here but I think that you also need to understand that you are dealing with neighbors. I was riding my bike down near BSU this year against one of these interim parking lots and there are weeds hanging over the sidewalks and you just kinda ride over them with your bicycle and the next thing you know is you are going down the road and you realize that it was a goat head plant and you know to me on a campus that is unacceptable. You got people riding bikes everywhere and all over the place and you know that is their mode of transportation and if can’t keep your parking lots maintained and keep the goat heads off the sidewalk, I don’t think that campus maintenance is doing their job and I have an issue with the maintenance also. I think if the City is going to allow these interim lots to be there that you know. I think the code does cover it but I think that it needs to be enforced and some things might need to be brought up to speed so. I just thought I should get down in the record as well that I think you know I think the campus might want to pay a little more attention to make sure these things are maintained and being a good neighbor like Mr. Fritchman mentioned.

Chairman Fadness: So is there any change in the wording of this that you would propose or is this just something that you are entering in the record. An area of concern or…?

Commissioner Russell: I don’t know if it appropriate or not but you know I think it would make me feel a lot more comfortable if under that in Section 11-04-11.04 all this text that is added and underlined that at the end of it if we added just a simple sentence that just says, “Design Review shall review and determine appropriate landscape schemes.” Something as simple as that would make me feel better but I’m not sure if that is the way that staff wants to handle it. If not then I think you know maybe we need to get into this thing maybe into the language or maybe have some diagrams on exactly what is acceptable if you eliminate the landscape strip what are you going to put in its place? So that we have kind of a general idea that it’s not just going to be a park bench there you know just a sea of concrete out there. You know theoretically the way this is worded you could put a 5 foot sidewalk out there and have a tree grate every 30 feet on center and then have a little 2 1/2 foot section on either side of the tree to pass. You know pass by as a pedestrian, that’s the way I read it.

Chairman Fadness: There would be no goat heads then.

Commissioner Russell: There would be no goat heads.

Chairman Fadness: Further discussion?

Commissioner Cooper: Let me just follow up on that, I think Commissioner Russell makes several good points. I wanted to point out that Boise State if they are going to build a building does not get their building permit from the City of Boise they get it from the state and so generally the construction on the campus is under the purview of the Division of Building Safety
at the State and personally I don’t know what standards there are to meet for that but also I think that you know Boise State’s intention to become an urban campus you know if you think of what a downtown street is like. It does not necessarily include a planting strip and you know if you were to have agree to a little discomfort with nothing specific about requirements for tree spacing but if they were to have tree grate in a 5 foot strip they are still required to meet the handicap code for getting around that tree grate so it would have to be allowance for that. So I think you know in general with maybe a little reservation about some looseness in the handicap thing I think I’m going to go ahead and support the motion as stated.

Commissioner Russell: I agree with Commissioner Cooper you know, if their ideas are going implement some type of scheme like we see in downtown Boise then I think that’s great, that’s a good alternative forget about putting in the landscape strip but it just says that where appropriate landscaping requirements may be satisfied with tree wells, street furniture and/or planters and does not include a landscape strip. Well that doesn’t mean that you are necessarily going to get a landscape scheme that we are seeing in downtown Boise it means that if all of a sudden it doesn’t work into their dimensional standard if they can’t get enough stalls in their parking garage or they can’t get enough square footage in their new student facility or whatever it is they are building then maybe they push that building wall out as far as they can and have nothing on the street. Maybe they just have a sidewalk. I guess maybe to me it’s just vague. I mean if the intent is to build something as a substitution like we see in downtown Boise I’m completely comfortable with that but to me that’s not what it says. It seems to me like there is a pretty big loop here that they are taking advantage of.

Commissioner Wilson: I completely agree with Commissioner Russell because the last thing that we had with the parking garage the university had proposed only a 5 foot setback and in discussing with them, what eventually got approved was a 10 foot setback which accommodated a 5 foot sidewalk plus some landscaping and they could meander the sidewalk around as they chose next to the building and actually in going to a 10 foot instead of a 5 foot did not reduce the number of parking stalls it really did not affect it at all that just was the right thing to do. And so I share the same concern that this language is too wide open and that we could be seeing more of this 5 foot setback thing which didn’t in that case didn’t particularly benefit the university to go to a 5 foot setback it didn’t benefit the building to have a 5 foot setback and there was not problem with going to a 10 foot. So I think that what we need to do is with this sentence that Commissioner Russell quoted “the landscaping requirements may be satisfied with tree wells bla bla bla is that at the end of that sentence just add a phrase that...and I’ll work on writing it here in the next little bit but I’m just kinda tossing this idea out to see if it would comply with the maker of the motion. Just to add a little something to say that all of these amenities need to be in addition to the 5 foot wide sidewalk so that we don’t end up with things, furniture and stuff plunked into the 5 foot sidewalk that would then create problems from a disabilities perspective. And then council can look at that language and decide if that’s something that um should stay in or not because we are making a recommendation to council so I think if this is something that we are really concerned about we need to try and address it.
Chairman Fadness: So if you want to work on some language Commissioner Wilson to propose in a motion, right now the motion is to accept it as we have it before us so.

Commissioner Wilson: Yes let me work on that just a little bit if that is something and if there is some other discussion that folks want to have.

Chairman Fadness: Is there further discussion?

Commissioner McLean: Yeah I’m actually ready to vote for the motion as stated and if the 5 foot sidewalk were to be blocked by any of these planters or chairs it would not be meeting ADA guidelines regardless. So to write something so that we meet ADA guidelines is superfluous because they’ve got to anyway. So…

Commissioner Wilson: I agree with the urban, I mean I agree with and I’m going to mix up the Doug. Laugh laugh Commissioner Cooper’s statement that an urban campus is going like downtown is going to vary then I think we are going to end up seeing both by give and take that we are going to get something looking like downtown. You look at this plan I would assume that BSU isn’t going to be out there trying to block their sidewalks because again they are trying to get to a point where they actually have a campus that’s liveable, enjoyable and passable. Um, I think that what they’ve got is a good means to get there.

Commissioner Cooper: After reading this carefully again there is a sentence that says, “A landscaping strip shall be included either in a parkway strip along curb and sidewalk or between the interior border between the sidewalk and the structure, parking lot or other campus use.” And that tells me there will be a planting strip. So I think the worry that we are just going to have a sidewalk and a building face.

Commissioner Russell: Read the next sentence.

Commissioner Cooper: Oh I’m sorry you are right.

Commissioner Russell: I guess I think we all know what the intent would be if we did not have a landscape strip but what could theoretically happen is you could have a 5 foot sidewalk and your building and the way this reads is you know you could through an ash tray out there on the sidewalk and you could still have you know you could still have ADA accessibility and you could call the ash tray site furniture. Now do I think BSU is going to do that? Absolutely not but at the same time if there is some type of you know site constraint that they are dealing with that you know they just can’t get the facility that they are looking for in there you know they could possibly take advantage of this section and I just don’t think necessarily that it is the right thing to do in most situations. If we had a 5 foot sidewalk or if we decide to eliminate the landscape strip and have a minimum of an 8 foot sidewalk so that you could have you know enough sidewalk area to you know move pedestrians and also have enough room to you know have some benches and possibly some tree grates out you know at the curb so that you could
walk behind the tree you know some type of scheme. I mean I think there is a way to get around it obviously but I think the removal of the landscape strip in this case is a way to minimize the setback all together. I mean to be quite honest with you, if you had a 5 foot sidewalk even if you were going to...what do you need for ADA 3 feet of clearance?

Chairman Fadness: 3 8

Commissioner Russell: 3 8. Okay let’s say if you had a 7 foot sidewalk or setback or sidewalk I mean whatever you wanna call it you are still kinda pushin it there you know to put a tree in and enough room to grow up against a concrete wall there whatever the situation might be. I don’t know I just feel like if we are going to eliminate the landscape strip in any case then the scheme that is being developed for that area needs to have some type of control. Needs to be reviewed and make sure that is fits within what the City’s vision is and what the campus vision is. I don’t know that’s just the way I feel about it.

Commissioner Wilson: It kinda sounds to me from Commissioner Cooper’s comments that having design review come into this might not be the right thing to do just because the city is not approving the buildings. But here’s something that I came up with. Following this sentence where it says, “and not include a landscape strip, period, new sentence however the sidewalk must continue to meet ADA guidelines so if alternative means are applied to enhance the sidewalk the sidewalk area should be widened to provide pedestrian and environmental capacity. Or something like that.”

Chairman Fadness: Could you read that again Commissioner Wilson, however must...

Commissioner Wilson: However the sidewalk must continue to meet ADA guidelines so if alternative means are applied to enhance the sidewalk the sidewalk area should be widened to provide pedestrian and environmental capacity.” So in other words room for the trees to grow and people to walk.

Commissioner Cooper: Mr. Chairman I guess I would say that they are already required to meet a handicap code.

Commissioner Russell: Mr. Chairman where as if we took the...where it says and/or planters and we just took the word or out. So if they were going to eliminate the landscape strip then we knew that they were going to come in with some type of scheme that included trees, street furniture and you know planters.

Commissioner Wilson: Commissioner I think that would get towards addressing the concerns quite a ways. I think that would help a lot.

Chairman Fadness: So just removal of the word or. Who was the maker of the original motion? Commissioner Ellsworth are you making a motion that we amend?
Commissioner Ellsworth: I’m just making a motion that we amend. I’m simply listening to all the arguments and I will soon decide what I’m going to do here.

Chairman Fadness: Okay

Commissioner Wilson: I just um and really pushing this concern because we did have an application from the university before us that would allowed for a 5 foot sidewalk that would have put the edge of the building within 5 feet of the curb and I think if we hadn’t of had that kind of thing we might have been able to have more faith in the fact that there would be trees and all this. There would be room for all of that. That we wouldn’t be seeing these 5 foot setbacks come in but since we saw one of those um I think we should make sure that this language is going to hold the university towards doing something a little more pedestrian friendly and really enhances their environment of the campus and makes it more like downtown. And a 5 foot sidewalk up against the building I don’t think does that.

Commissioner Ellsworth: That takes care of it?

Commissioner Wilson: Yes Commissioner Ellsworth I think that it does because that would require them to have planters and you know street furniture couldn’t be just a substitute for providing accommodation for trees, landscaping.

Commissioner Ellsworth: For the motion I will recommend that or make a motion where we a remove the word or following and/or in Section 11-04-11.

Chairman Fadness: And except the zoning ordinance amendment otherwise as is?

Commissioner Ellsworth: Otherwise as is.

Chairman Fadness: Does the seconder concur, who seconded that?

Commissioner McLean: Was that me? I would prefer that someone else second the motion.

Chairman Fadness: Well if the seconder doesn’t concur then…as I understand it the motion dies. So we would need a new motion. If no one else chooses to second it.

Attorney Mary Watson: The substituting would die the original motion would remain.

Chairman Fadness: I don’t. The original motion…

Attorney Watson: If the modification of the original motion doesn’t get a second then the original motion remains as stated. But you could offer a substitute motion.
Chairman Fadness: Do you care to do that Commissioner Ellsworth make a substitute motion? Just saying the same thing with that change in the text.

Attorney: Yes you are just getting another seconder.

Chairman: So you are offering a substitute motion to remove the word or. Okay to I have a second on that? Seconded. Is there any discussion?

Commissioner McLean: So we aren’t adding that whole sentence that was read?

Chairman: No. We are changing one word. Any further discussion? Motion carries. Thank you. I would like a covered stadium and the thing enclosed so when we win our bowl game.

Commissioner: I would like you to beat Oklahoma.

Chairman: Okay a little bit more discussion on that than anticipated which is just fine. That moves us to Item #4.

**CAR06-00068**
Location is 10230 W. Franklin Road
REQUESTS APPROVAL FOR A REZONE OF +11 ACRES FROM M-1D TO PC-D. THIS REQUEST IS CONTINGENT UPON CITY COUNCIL APPROVAL OF CAR06-00053 AND CAR06-00054 which I believe changes the zoning from the M-1D to the high density residential. COMPREHENSIVE PLAN AMENDMENT AND REZONE CURRENTLY SCHEDULED FOR CITY COUNCIL ACTION ON DECEMBER 12, 2006.

Before we go to the staff report is there anyone here from the public testifying against Item #4? Since there isn’t Lance with your permission I think that we will waive staff report, I know that you are disappointed. The applicant since there is no opposition may want to share something but isn’t necessary if the applicant doesn’t choose to. Who is the applicant on this one? Did you want to say anything, are you in agreement with the staff report all the conditions of the staff report. Applicant nodes in agreement. Okay, this is a rezone so we do need to enter some comments into the record but unless the commissioners have questions for staff or the applicant and since there is no public testimony I would be willing to entertain a motion.

Commissioner Wilson: I would like to make a motion that we approve CAR06-00068. Seconded.

Chairman: We have a motion and a second, discussion?

Commissioner Wilson: This rezone is a part of a development agreement that we approved whole heartedly when it was before us and that we are all hoping that council approves also whole heartedly because that’s always nice when they agree with us. Kind of makes us feel bad
when they don’t. The development agreement that we approved called out the potential for this rezone to pedestrian commercial and that’s an essential part of creating this transit oriented development so I think that this is a good rezone, it is going in accordance with the plans that we had seen before in the development agreement and should be forwarded to City Council for approval.

Chairman: Further discussion? None. Motion carries. That brings us to Item #6.

**CAR06-00070 / BENCO PROPERTIES, INC.**
Location: 8199 W. Overland Road
This is a requested approval of a rezone of 0.25 acres from single family residential to neighborhood office with design review. Is there anyone here wishing to testify against item #6? We might be able to waive the staff report on this item too. The applicant is in agreement with the findings on the staff report. Commissioners I would be willing to entertain a motion on this unless you have questions for staff or applicant.

Motion carries.

Commissioner Ellsworth: I think staff has done a good job in recommending this approval stating that it’s a good zone for this particular…(could not hear commissioner briefly). It creates a good buffer between residential use and intense use of (could not hear commissioner).

Chairman: Further discussion? None. All those in favor of the motion? Motion carries. That takes us to Item #10 **CAR06-00067 / CITY OF BOISE** and this was deferred from our November 13 meeting. This is an amendment to Boise City Code title 11, Chapter 2, Sections 4 & 5 to eliminate the requirement that one member of the design review committee be a member of the planning and zoning commission, and to add a requirement that one member of the planning and zoning commission shall be a non-voting, ex-officio liaison to the design review committee.

Is there anyone here to testify against this item? No response. Okay there being no to testify against it we will waive the City’s report and I would be willing to entertain a motion.

Motion and a second. Discussion.

Commissioner Wilson: The reasons that staff sights for making this ordinance amendment are absolutely accurate but I would also like to emphasize a couple of other things. One is that this liaison rule is drawing out of recent activities which promised to bring more meaningful coordination among all the entities that deal with planning and design. We now have a coordination task force with representatives from the Planning and Zoning Commission, City Council, Design Review Commission and the Historic Preservation Commission. This task force is planning some joint training sessions for all bodies and we also plan to institutionalize this as part of the Blueprint Boise process. We want to make sure that the time that everyone spends in
volunteer service to the City is meaningful and also to make this a better community. To that end right now what we see as the role of liaison is to communicate regularly with the chairman of the Design Review Committee and to assist with special projects undertaken by the Design Review Committee. As an example we are currently providing a Planning and Zoning Commissioner on the design reviews effort to create downtown design guidelines and this is exactly the coordination that we want to see happening between us and our committee. This type of input plus all of the other coordination activities means that the link between the Planning and Zoning Commission and our Design Review Committee will be stronger and a higher quality than it has been in the past which I think will work to benefit everybody.

Commissioner Cooper: Mr. Chairman, I would like to add that I agree I think that this is a really appropriate resolution to this. It’s a long process that we have gone to to find the right fit between our commissioners committees and I just want to take the opportunity to thank Commissioner Wilson for her efforts on that process.

Chairman Fadness: I too want to echo that Commissioner Wilson really picked up the ball and ran with this and did lots of good hard work on it. I kind of lobbied this into the bench to all vote no just to surprise you but that would only make our meeting go longer. I was thinking of amending the motion though to, because of all our hard work to make Commissioner Wilson a permanent member, a permanent liaison. I won’t do that either. Any further discussion?

Motion carries.

We have one set of meeting minutes to approve or decline from our meeting of November 6. Motion to approve carries. Discussion.

Commissioner Russell: I have some issues on the minutes for CUP06-00082. Page 6. Second to bottom paragraph. The only reason I would like to clarify this is that for some reason this is appealed. Bottom line is that I was wondering if staff could go back and just review the tape again and maybe just pay a little bit closer attention to what I said there. I assume you guys have the tape and I can’t remember every word I said but I do specifically remember on this item you know the issue was is the hotel compatible with the adjacent residential area and my opinion was that it was compatible and some of the reasons that I stated that it was compatible was that I think the applicant proved through their traffic reports that this is a very low traffic count type of project. He quoted a couple or several other items in his traffic report that have excessively higher traffic counts things like coffee shops and drive thrus and things that some people would deem more useable by residential areas. But the point that I was trying to make here was that I thought this was compatible due the traffic counts and the low impact of the use and I went on to state you know some of the other facilities that were along Overland Road and how much more impact that they had on the residential areas over there. I just felt like this was a compatible use. I do not recall saying that the mass and bulk of the building is just too large of an area with a 3 story structure height to the road. I felt like the height of the building was acceptable I felt like that it was not going to have a negative impact on the neighbors and the fact that it was in that
little commercial development there and it some good separation that it did fit in. I just wanted to clarify that for the record just in case Council has to see this. I don’t know I’m not really accustomed to you know amending minutes but this was something that I saw that was kind of glaring me in the face.

Chairman Fadness: We can amend them to say whatever within reason you can remove something out of this to say something else. We can then adopt the minutes as amended.

Commissioner Russell: Okay

Chairman Fadness: It sounds like you want that one sentence about the bulk and mass of the building removed.

Commissioner Russell: Yes I think if we remove that last sentence – mass and bulk of the building that sentence and at the end of it just say something that along the lines that I feel that it is a compatible with the residential development in the area due to the low amount of traffic that this project is going to generate and the low impact of the use. I think that would probably cover it.

Chairman Fadness: So the motion is to approve the minutes with Commissioner Russell’s modifications.

Attorney: Substitute motion or you could ask the maker of the motion to amend his motion to reflect that.

Motion amended and seconded. Motion carries.

There is no direct verbatim. Chairman directs staff to always type verbatim from the tapes.

Meeting adjourned.
Planning & Zoning Commission

Hearing Minutes of December 11, 2006

Commission Members Present
Gene Fadness/Chairman, Brandy Wilson/Vice Chairman, Amber Van Ocker, Brian Ellsworth, Lauren McLean, Doug Cooper & Tony Orman.

Staff Members Present
Cody Riddle, Scott Spjute, Joan Johnson, Lance Evans, Pam Engelhardt & Mary Watson (Legal).

Deferrals

CUP06-00108 / CITY OF BOISE asking for deferral to our meeting of January 8. Is there a member of the public who came to testify on Item Number 2 who would not be able to return to our January 8 meeting? No response.

CUP06-00109 & CVA06-00048 in the case the applicant Red Rooster, LLC is asking for deferral to our meeting of January 22. Is there any member of the public who came to testify on this item who would not be able to return to our January 22 meeting? (did not hear response). And you plan to testify? Do you want to provide written testimony to be submitted at our 22nd hearing or provide oral testimony tonight? The item will actually be heard on the 22nd so if you want you can submit written testimony.

Public person: Are they given the same value if written?

Chairman: Oh yes they are given the same value. Okay and if you want you can even chose to have someone come in your place on the night of the 22nd and present as well. Thank you for your consideration on that.

Also proposed for deferral are two of our subdivision proposals one is F. SUB06-00113 Elizabeth Place Subdivision. The applicant is asking for deferral to January 22. Also item H. SUB06-00116 the Aberdeen Place Condominiums. The applicant there has asked for deferral to our January 22nd meeting. So with those 4 deferrals commissioners I would be ready to entertain a motion.

Commissioner Van Ocker: I’ll make a motion that we defer Item #2 CUP06-00108 to our January 8th hearing, defer Item #6 CUP06-00109 & CVA06-00048 to our January 22nd,
Item #F SUB06-00113 to our January 22\textsuperscript{nd} and Item #H SUB06-00116 to our January 22\textsuperscript{nd} hearing.

Seconded (did not hear by whom)

Chairman: We have a motion and a second is there a discussion. All those in favor of the motion vote I. Opposed? (no response) Motion carries.

Chairman: We also have some items proposed to be placed on our consent agenda

\textbf{Consent Agenda}

\textbf{CUP06-00110 / BOISE STATE UNIVERSITY}
Location 1190 W. University Dr.
REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT FOR A HEIGHT EXCEPTION FOR AN ADDITION TO BE BUILT ON THE WESTERN SIDE OF THE EXISTING STADIUM LOCATED IN THE U ZONE.

Chairman: Is the applicant for item 5 present tonight? Let the record reflect that the applicant is present. Is the applicant in agreement with the terms and conditions as outlined in the staff report? Let the record reflect that the applicant agrees with the staff report. Is there any member of the public that came to testify against Item number 5 tonight? There being no adverse testimony tonight Item 5 will be placed on the consent agenda. Also proposed for the consent agenda is item 7.

\textbf{CAR06-00071 / BOISE City of Boise}
REQUESTS APPROVAL OF AMENDMENTS TO BOISE CITY CODE SECTIONS 11-07-02.02 TO INCREASE THE NOTICE REQUIREMENTS FOR DESIGN REVIEW COMMITTEE HEARINGS; 11-30-06-01 TO INCREASE THE NUMBER OF DAYS IN ADVANCE OF ANY HEARINGS THAT SITES MUST BE POSTED AND 11-04-14 TO REQUIRE THAT RADIUS NOTICES BE SENT FOLLOWING APPROVAL OF DEVELOPMENT OF SUBSTANDARD LOTS OF RECORD.

Chairman: We know that the applicant is present tonight and we assume that the applicant is in agreement with the terms and conditions of its own staff report. Is there any member of the public that wishes to testify against this request tonight? There being no adverse testimony this request will be placed on the consent agenda. We also have several subdivisions proposed for the consent agenda.

\textbf{SUB06-00104 / HULST CONDOMINIUMS}
A PROPOSED PRELIMINARY/FINAL PLAT FOR CONDOMINIUMS WITH 16 UNITS LOCATED ON THE SOUTH SIDE OF HOLLY, WEST OF WALNUT AVENUE.
Chairman: Is the applicant for Item A, SUB06-00104 present tonight? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees with the staff report. Is there any member of the public wishing to testify against Item A? There being no adverse testimony, Item A will be placed on the consent agenda. Also B.

**SUB06-00118/CAPSTONE CONDOMINIUMS**
A PROPOSED PRELIMINARY/FINAL PLAT FOR A COMMERCIAL SUBDIVISION WITH 1 LOT (14/UNITS) LOCATED ON THE EAST SIDE OF CURTIS ROAD, SOUTH OF IRVING.

Chairman: Is the applicant for Item B present? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees with the staff report. Is there any member of the public wishing to testify against Item B? There being no adverse testimony, Item B will be placed on the consent agenda. Also C.

**SUB06-00110 / GREENFIELD PARK SUBDIVISION**
A PROPOSED PRELIMINARY PLAT FOR A LIMITED OFFICE SUBDIVISION WITH 7 BUILDABLE LOTS AND 7 COMMON LOTS LOCATED ON THE NORTH SIDE OF NORTHVIEW, WEST OF ASH PARK.

Chairman: Is the applicant present for Item C? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees with the staff report. Is there any member of the public wishing to testify against Item C? There being no adverse testimony, Item C will be placed on the consent agenda. Also D.

**SUB06-00111 / SLOUGH SUBDIVISION**
A PROPOSED PRELIMINARY/FINAL PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 5 BUILDABLE LOTS LOCATED ON THE SOUTHWEST CORNER OF DELMAR AND NORTH BRYSON.

Is the applicant present for Item D? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees with the staff report. Is there any member of the public wishing to testify against Item D? There being no adverse testimony, Item D will be placed on the consent agenda. Also E.

**SUB06-00112 / FORT BOISE CONDOMINIUMS**
A PROPOSED PRELIMINARY/FINAL PLAT FOR A CONDOMINIUM SUBDIVISION WITH 1 LOT (52/UNITS) LOCATED ON THE WEST SIDE OF SHAW MOUNTAIN, SOUTH OF RESERVE.

Is the applicant present for Item E? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees
with the staff report. Is there any member of the public wishing to testify against Item E? There being no adverse testimony, Item E will be placed on the consent agenda. And finally Item G.

**SUB06-00115 / HOSAC SUBDIVISION**  
A PROPOSED PRELIMINARY/FINAL PLAT FOR A COMMERCIAL SUBDIVISION WITH 8 BUILDABLE LOTS AND 1 COMMON LOT LOCATED ON THE SOUTH SIDE OF EMERALD, ACROSS FROM ARMSTRONG PLACE.

Is the applicant present for Item G? Let the record reflect the applicant is present. Is the applicant in agreement with the terms and conditions of the staff report? The applicant agrees with the staff report. Is there any member of the public wishing to testify against Item G? There being no adverse testimony, Item G will be placed on the consent agenda. Unless I have forgotten any I believe those would be the only items for the consent agenda and I would ready to entertain a motion.

Commissioner Van Ocker: I'll make a motion for approval of our consent agenda with the following items. SUB06-00115, SUB06-00112, SUB06-00111, SUB06-00110, SUB06-00118, SUB06-00104, CAR06-00071, CUP06-00110 along with staffs recommended conditions of approval, findings of fact and conclusions of law.

Chairman: We have a motion and a second, do we have any discussion? All those in favor of the motion vote I, any apposed? Motion carries. We will now go to the regular items that appear on our agenda.

**Regular Agenda**

**CUP06-00101 / R.S. HOSAC, INC.**  
Location: 10335, 10369 & 10433 W. Emerald Street  
REQUESTS CONDITIONAL USE APPROVAL TO ALLOW OFFICE SPACE IN AN INDUSTRIAL ZONE FOR 3 PROPOSED BUILDINGS LOCATED IN AN M-1D ZONE.

Chairman: We do note for the record that the commissioners received in their packet an email from Bradley Miller. They own the former Eddy’s Bread facility to the south of the property and have a number of concerns with the proposal that the commissioners have read. Before we go to the staff report on this one, I might ask is there any member of the public, I don’t have any sign up sheets before me yet, to testify on item number one? Any member of the public wishing to testify against item number one? Okay with that commissioners we may be able to waive a staff report on this item unless commissioners you have questions of the
applicant we might waive that report as well unless the applicant feels a need to present tonight. Is the applicant for item number here? And you in agreement with the terms and conditions of the staff report for item number one. Okay then do you agree to waive your report to the commission tonight? Okay commissioners to have questions for the staff or applicant? Okay with that I would be willing to entertain a motion.

Commissioner Wilson: I make a motion that we approve CUP06-101.

Chairman: Second? I have a motion and a second, any discussion?

Commissioner Wilson: We have really tried to hang on to industrial areas where they make sense throughout this corridor and this one because of it’s separation from the railroad and it’s frontage on Elm Street seems to lend itself a little more to office uses. But I would encourage the applicant to think about tenants that could do a little bit of both. As this is set up you will only be able to have about 80% of office space anyway and I can’t tell you the number of times we have people come before and say “Well I want to do an office, but I also want to build kids wings” or something and we are not able to accommodate that under other zoning and so if that is something that you guys can look at and find someone that may want to build something small scale that would work well with your buildings I would really encourage you to do that. Sometimes I wish we could like had a sign up sheet where we could match up people who have certain projects and want certain zones with the people who actually own the property in zones where they would work. But since we don’t have that I just kinda through that out there for your consideration.

Chairman: Thank you Commissioner Wilson, any other comments? All those in favor of the motion vote I. Opposed? Motion carries. That then brings us to item 3 and it’s companion application Item 3a.

**CVA06-00052 & CUP06-00111 / HACHMAN PROPERTIES, INC.**
Location: 211 E. Highland St.
REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT FOR A TOWNHOUSE PLANNED UNIT DEVELOPMENT FOR (2)-4 UNIT TOWNHOUSE BUILDINGS WITH GARAGES FOR A TOTAL OF EIGHT HOMES ON 0.99 ACRES LOCATED IN A R-1C ZONE. THIS REQUEST INCLUDES A VARIANCE FOR A SERVICE DRIVE IN THE REAR-YARD SETBACK.

**SUB06-00014 / HEDGE BROOK SUBDIVISION**
A PROPOSED PRELIMINARY PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 8 BUILDABLE LOTS AND 1 COMMON LOT LOCATED ON THE SOUTHWEST CORNER OF HIGHLAND AND LOGGERS CREEK.
Chairman: We did receive in our packets tonight a letter from Judith and Horrace M. Smith, from J.B. and Elizabeth M. Woody and from Phil and Louise Collier requesting the consideration of several conditions regarding the property that we are to hear about tonight. I see where some of these folks are here tonight and have signed up. I believe with that we will go ahead with the staff report Cody.

Cody Riddle presents the staff report with recommendation of approval of CVA06-00052 & CUP06-00111.

Chairman: Thank you Cody, unless there are questions from the commissioners we will next go to the applicant.

Brett Labrie – Studio L Architecture on behalf of Hachman Properties. Mr. Chairman, members of the commission, I think what we have put together here works real well on the site. We are in agreement with staff’s recommendations on the modification of the setback and I guess I’m, we are unaware of any other issues that surrounding neighbors might have. I know that one thing that’s come up is maintaining as much landscape of the existing mature landscape as possible and that’s something that we like to do on any development that we do because it enhances that considerably and that is our plan with this at this time without going into the next step of the civil design we haven’t identified exactly which trees are going to be maintained and which will have to be removed but we are going to make a conscious effort to maintain as many as possible and I guess I don’t have any other comments at this time.

Chairman: Mr. Labrie could you state an address for the record.

Brett – 619 East Curling Drive, Boise, Idaho 83702

Chairman: I guess I have a question about the…and the person who testified may address this issue as well but the trees where at the rear. Is the rear yard setback is 13 ½ feet or is it the Eastern side?

Brett: Yea the East side.

Chairman: Do you know for a fact that those trees will remain since it’s the larger setback there?

Brett: Yea our intent is to keep those by increasing the setback to 13 ½ feet that we need to and the current plan that we had only showed 5 feet and so it was a little iffy what we were going to be able to do there. I don’t see any reason why we can’t keep all of that hedge it is going to only give it an enhanced buffer to that drive on the East side of the development. That was one of the conditions of approval and we are completely fine with that.

Chairman: Further questions? (no response) Thank you. We’ll next go to those that have signed up on the sign up sheet. First we have Gary Garrett.
Gary Garrett: 1580 Londoner, Boise and I own the 3rd acre south of that acre. My brother is unable to attend he is the justice of that property and we both talked about it. We really like this project. We really like the accents in the back the buffer and really think we want it for us. But there is one issue that I want to bring up and that is that we flood irrigate all 3 of those acres and right on the boundary of those properties there is a ditch that goes through there and I don’t know what’s going to happen to that irrigation water. What we have done and some of the other neighbors adjacent to us…the fence that they are going to put along there put a small 2-3 foot burm and put the fence on that. That is my only concern is the irrigation. I kinda hate to…we put 16 inches of water through there on that land and I kinda hate to have their cars float away or something. Basically that is our only concern, my only concern and my brother is that we don’t want to give up the flood irrigation on that property but we also don’t want it going on to the neighbors property either so that is the only thing I would ask. Thank you very much.

Chairman: Thank you. Horrace and Judy Smith, I don’t know if one of you want to testify or you both want to testify.

Horrace Smith: 1570 Londoner Street Lane. My wife said that I could testify for her so. Really we think it’s a good project we just had a couple of concerns. And the one is that hedge that you saw because it gives us some privacy so if the developer would agree to not cutting the vegetation and that 13 ½ setback that would be great for us. And the only other two things I can think of is along Highland Street itself other projects across the street which we fought for all have like 3-4 foot fences and that was to keep the dogs out of the neighborhood and control them from running out into that street. And so we are requesting as we did in the letter that this project be fenced along Highland Street and the other thing that has really been good for our neighborhood is we fought for that also and we requested that they wouldn’t allow parking along Highland Street on those other condominium and apartment complexes. There are no parking signs there and it really helps to be a safer place and it also looks a lot nicer and so we are totally in favor of the project we think it looks good and will be good for our neighborhood and we are supportive of it. So unless you have any other questions why…

Chairman: Thank you Mr. Smith, any questions? (no response) Okay Pat Coffer. (changed her mind). Okay those are the only names I had on the sign up sheet is there anyone else who wanted to testify who did not sign up on the sign up sheet? Okay, commissioners questions for staff or applicant?

Commissioner Van Ocker: I just had a question concerning the last gentleman who testified and the no parking signs along Highland Street and if they’ve got them there now is that something that requested of ACHD because I didn’t think that is something that we could do.

Cody Riddle: Mr. Chairman, Commissioner Van Ocker that’s correct and it wasn’t included in ACHD’s comments or required conditions of approval so that’s something that they would need to work out with the highway district.
Commissioner Van Ocker: Okay.

Commissioner Wilson: Just a question for staff. Condition of approval number 9 is that address the issue of the neighboring flood irrigation as well in making sure that that doesn’t…that the development does not impede the irrigation and also that the irrigation in the future doesn’t impede the development?

Cody Riddle: Mr. Chairman, Commissioner Wilson, that was the intent there it was written more to address obstruction of the flow of irrigation to the adjoining parcel. There is also a requirement from the drainage district that they need to approve the plans prior to building as well.

Commissioner Wilson: Okay thank you.

Chairman: Any other questions?

Commissioner Cooper: I guess I will ask the applicant we have talked about all the issues that have been brought except the fence that is along Highland Street, is that something they would be interested in doing?

Applicant: Chairman and members of the commission, Commissioner Cooper, because of how we have tried to Front this property on Highland Street I think really the only way that makes sense to accommodate some type of fencing there would maybe a wrought iron, something that is a little more open rather than what we see on the neighboring properties which don’t offer that type of frontage that we are trying to give Highland with the development and I’m just talking to the Developer and we would be open to doing a wrought iron type fence but not something of that sort like a solid or a vinyl.

Commissioner Cooper: I guess the neighbor mentioned keeping dogs in and as I look at your plan it seems to me that any fence would be interrupted several times by the walks going up to the houses.

Applicant: Yes that’s correct. So I’m not sure would it…it might be difficult to deal with how just the flow of that front space and the plaza if we tried to do something there. I guess for that I would probably rather not see any type of fencing there. It wouldn’t enhance the project.

Commissioner Cooper: Okay thanks.

Chairman: Okay. Cody do you have any closing comments?

Cody Riddle: Mr. Chairman just briefly on the fencing issue. Staff actually looked at that quite a bit as well. If there was a fence we would prefer a wrought iron, open vision type fence as
opposed as a vinyl, solid product that has been installed up the street. We would also consider gates within the fence but other than that we have no further comments.

Chairman: Okay. Now does the applicant have any rebuttal other than what you have said already?

Applicant: I guess I might comment that in the overall design with the open courtyards and the front courtyards that are enclosed spaces that does offer some useable front outdoor space for pets or something of that nature without actually fencing off the yards. And again any type of a fence even if it’s a low wrought iron type fence would…it would really impede the flow and the usability of the plaza I think. That’s all I have.

Chairman: Thank you. Commissioners unless you have further questions of staff or the applicant I will close the public hearing and you may deliberate towards a decision.

Commissioner Wilson: I wish to make a motion that we approve CUP06-111 and CVA06-52.

Second.

Chairman: We have a motion and a second any discussion:

Commissioner Wilson: Mr. Chairman I think that some of the period of meditation and thought that we were having for a minute there is probably concerning the fence and I think that given just the short space of the yards that it would probably be best to go ahead and proceed with the development as it is presented rather than adding a fence and I also think that many of the items that have been brought up this evening have been addressed by the developer and are contained in the conditions of approval so I think that staff has done a thorough job and everything is in place.

Commissioner Cooper: I agree with what Commissioner Wilson said either the conditions as stated or our lack of purview pretty much covers all the issues. I really like this project I’m looking forward to seeing it built and I agree with the applicant that I think a fence would be detrimental especially looking at the plaza space in front of it.

Chairman: Further discussion? (no response) All those in favor or the motion vote I. Motion carries. We’ll next take up the subdivision proposal.

SUB06-00014 / HEDGE BROOK SUBDIVISION
A PROPOSED PRELIMINARY PLAT FOR A SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH 8 BUILDABLE LOTS AND 1 COMMON LOT LOCATED ON THE SOUTHWEST CORNER OF HIGHLAND AND LOGGERS CREEK.
Commissioner Wilson: I would like to make a motion that we approve SUB06-00014. Seconded.

Chairman: We have a motion and a second, any discussion?

Commissioner Wilson: This subdivision matches what we just approved and I think that even based on the neighbors comments it’s going to be a good addition to the neighborhood so.

Chairman: Any further discussion? (no response) All those in favor of the motion vote I. Motion carries. That brings us to Item #4.

**CUP06-00107 / TRUAX COMPANY**
Location: 2805 N. 36th Street
REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT FOR AN INFILL PLANNED DEVELOPMENT CONSISTING OF 8 RESIDENTIAL UNITS (7 NEW, 1 EXISTING) ON ±1.20 ACRES LOCATED IN AN R-1C ZONE.

Chairman: And I might add commissioners that tonight we did receive a letter from Scott Gray from 2804 Woody Drive. He opposes the development for 3 reasons that he states in the letter and I will not for the commissioners that we did receive that letter. We will next go to the report from staff, Cody.

Cody Riddle: Gave the staff report with a recommendation to approve the request.

Chairman: Thank you Cody, are there any questions?

Commissioner Ellsworth: Cody, in our report we don’t show the stub street that you are showing there I believe the street to the South. We show just kind of a dead end there. Two different drawings are in the packet.

Cody Riddle: That’s correct. The intent is the option that stubs to the adjoining parcel with the private street there. That came in later as the applicant was working with staff.

Commissioner Ellsworth: So you have the most current one, the one that we are approving.

Cody Riddle: The one that is on the screen that is correct.

Commissioner Ellsworth: Okay.

Commissioner Wilson: Just a question about the amenities? People seem to get hung up on the amenities only being open space but actually there are a whole lot of other things that applicants can do such as energy conservation features and the last one is really wide open it just says that anything they want to propose the commission would like to approve so were there other
amenities that you guys discussed before staff decided to grant a waiver or perhaps it is something that the applicant could address when he comes forward too.

Cody Riddle: Staff’s thought was you know the one proposed amenity in addition to the fact that many of the units provided additional open space for usable yards in addition the required set backs and then the close proximity to the public park that was our justification for the waiver request. I believe the applicant could probably expand on that as well.

Commissioner Wilson: Okay unless there are further questions we will next hear from the applicant.

Applicant: Mr. Chairman, Commissioners, my name is James O’Connor I work with Hutchison Smith Architects. I would like to thank Cody for that presentation. I’m at 270 North 27th Street, Boise. I think Cody has covered most of the issues with regards to this PUD but I would like to just reiterate on a couple of things. This project is a PUD and was designed as such to meet the requirements of the zoning ordinance with respect to density, lot sizes, setbacks, amenities etc. And we feel we have met all these requirements in the design as Cody said without any request for variances. The redesign is also a result of the concerns and subsequent reasons for decision by the City Council at the appeal hearing and if you would bare with me I would like to address each of these individually because they have had an impact on this project and we would like to show the efforts we have made to mitigate the concerns. Item 1 was non-compatibility with existing neighborhood. What infill type developments by their nature appear more dense than existing neighborhoods this particular development is actually 2 units below the allowed density and the mix of single detached one and two story homes is in keeping with the type of homes in the area. The visual impact from 36th Street we feel will remain basically unchanged other than we are adding one single story unit to the North of the existing home. Proper spacial transition to adjacent uses. With this new layout we believe that spacial transition to adjacent uses is greatly improved. The new units to the North and South and 15 foot rear yard setbacks abutting the existing 5 foot side yard setbacks. The proposed 2 story units are well outside this 15 foot rear yard setback. With regards to the Western most lots which appears to be the problem area of this development we are proposing a 15 foot setback which matches the adjoining 15 foot rear setback over the fence and our new layout is proposing 2 one story units in lieu of 4-2 story units from the original CU application with the landscape berm and amenities centered at the new private street. We believe that this new layout with the impact on the adjoining properties which are 3 actually existing to our proposed 2 is greatly reduced. Landscape and buffering per the site layout we have increased the tree count from 13 to 22 and we are also providing a landscape berm with a minimum of 3 trees at the end of the new street plus 6 additional trees in the side yards of the proposed one story units along the Western property line. At the location of the access easement the emergency vehicle turnaround will also provide a visual break from adjacent units and with this new layout additional trees I think added with added landscape and structural buffering is provided. With regards to the amenities: the new layout allows for separation of the proposed amenity and the drainage. That is one issue that came up at the appeal hearing. The proposed amenity as Cody said is a community rose garden with
surrounding landscape berm and decorative arbor which is greater in size than the original conditional use application. With the location of this amenity we believe it will be a nice visual tone at the end of the new private street. Now an infill development allows a waiver which we qualify for infill we believe that in affect we are providing more than one amenity. We have the rose garden but the homes will be constructed energy efficient and then plus we are very close to an existing park. The roadways was also an issue that came up with regards to connectivity. With the new layout we have eliminated a connection to the North and significantly reduced the amount of paving and sidewalk. We are providing an emergency turnaround to the South which also provides for future connection to a vacant parcel to the South. The existing trees: When we designed the original layout we felt that the large cottonwoods were reaching their maturity in fact were becoming a liability so we did try and include them in the original design and this whole process has been validated per the arborist reports which are included in your packets and we feel that we are mitigating the removal of these trees by increasing the amount of new healthy trees that we are providing. So in summary with both the original layout and the new layout for this planned infill development we have tried to provide a project that meets the needs of all parties; Truax Company as the developer, Boise City Planning and Zoning and the adjacent neighbors and we truly believe that with this new layout we have addressed the concerns of the neighbors and the findings of the City Council. Although we maintained a 15 foot setback along the western property line we believe that with the reduction of the number of units from 4 two story to 2 one story units with landscape areas in between plus the additional trees and the proposed side yards addresses the issue of site design sensitivity towards the adjoining properties to the west and we still believe that this development will be an asset to the neighborhood and the city in general and with that we respectfully request your approval. Thank you.

Chairman: Thank you. Any questions for Mr. O’Connor before we go to the public testimony? No response. Thank you. Let’s take up those who signed up on the sign up sheet, first I have Beth Graycloud.

Beth Graycloud: 2908 Woody Drive which is on the left side of this lot up the street a little bit. I have to say they have really done a nice job of trying to accommodate everybody. The single story houses on the back side are a huge improvement. I have a couple of questions. In the staff report I think this is just a typo but I want to double check. On number 3 the reason for the decision second paragraph starts out “The proposed 10 unit development complies with goals, is it 10 or 8?"

Chairman: Could you sight a page?

Beth Graycloud: Page 8 number 3 the second paragraph.

Chairman: We will direct that to Cody. Oh I see the very bottom paragraph.

Beth: On page 8 Cody the very bottom, the proposed 10 unit development.
Cody Riddle: It’s 8. 8 units as shown on the site plan.

Beth: I thought so I just wanted to double check. The other question I have the road…and I’m probably going to get my directions wrong, the South Road that is like the abutment that is like a cul-de-sac it goes directly into that property on the South side is that right? Does that have a buffer like a fence or anything to like so when people are coming in at night with their lights on they are not just shining right into those people’s property?

Chairman: Maybe when Cody does his closing remarks we will have him address that issue. Take note of that Cody and you can resume your testimony.

Beth: Okay the other thing is the setbacks. I know they are 15 feet that is kinda standard. One of the things the City Council said is they wanted to see a larger setback on the western so I don’t know how that plays into the whole thing I was just curious about that one. I know it’s the standard but I also know they didn’t make it any larger so I don’t know if that’s accommodated by the two story homes or I mean the one story homes as opposed to the two story homes which is nice but I know it is still a concern of the neighbors on the back side of that they even with the rose garden there they are still going to have a lot of people right next to their back yards.

Chairman: We will take note of that as well.

Beth: That is all I have, nice job to the developers and everybody for coming up with that design, the houses are nice. Thanks

Chairman: Thank you. Scott Gray.

Scott Gray: 2804 Woody Drive. I am also two properties directly next door to my property so I’m 3 times interested in this as your normal homeowner would. I have spent quite a bit of my own time on this I am a realtor so I have a lot of knowledge of how houses are being developed. I have several issues that I opposed to on this project. The main thing is the planning and zoning nor the architect designed this project to address the setbacks to the western lots. It was mentioned twice in our appeal reasons for their decision and I found that like slap in the face to the neighbors. And my second big issue is the fact the minimum lot size is well below the minimum standard we have here in Boise. And my neighborhood doesn’t have an association that is in tact. It is part of the Veterans Neighborhood Association which the president doesn’t even return calls. The Collister Neighborhood and the Veterans Neighborhood Associations have endorsed our appeal of this development. They do feel that the density is putting as many as they can and the lot size of 5000 feet minimum is well under that it is 3200 feet. The lot sizes in our neighborhood average between 8 – 13000 square foot. We have large lots and I don’t think this fits with the adjacent uses of our neighborhood. The setbacks, there is some variances that the developer has asked for due to putting the homes a little bit further up than they would normally be and I think they should be set up exactly the way our standards are in place for they are there for a reason and to protect neighborhoods like ours, I think that is important. The final
thing that I have is that most of the neighbors that are on our side they don’t really have any
ability to know what is going on with this development. I have talked to several of them and
they don’t know enough about it to come here and know to appeal and take their voice to
commission here. So I just wanted to say to protect my neighborhood I don’t want to have to
move out of my neighborhood because development has occurred just to benefit development
and the developers their gone. Once the property is sold we are here living in the neighborhood
having to deal with whatever happens so I just wish you would take that into consideration.
Thank you.

Chairman: Thank you. Robert Crowe.

Robert Crowel: 23990 Lansing Lane – Middleton. However I own the property 2723 North 36th
which is the immediate one to the South, the so-called vacant lot. I have owned that property
close to 15 years ago, was living there up until about 5 years ago and retained the property and
was going to give it to my son, he is deceased now. I have no particular reason to keep it.
However, I still own the property and I am interested in the potential for it being developed
possibly. Overall looking at the planning on that has gone into the site to the North, I think it has
been done probably better than most infills I have seen for most in the city, I also think that it is a
beneficial one if it is going to be done I think this one is a good one. The only thing is to North I
don’t know how far before there is a pre-existing infill that went in there with must higher
centration of homes I don’t know how old it is. It was there 15 years ago as far as I know but
there is a little cul-de-sac that goes back in there that has a heck of lot more homes jammed in on
a smaller amount of property up there. So as far as whether this is going to be terribly
detrimental to the neighborhood, I can’t see it. If I wanted at the back of my property I could
have put up a shop building of corrugated metal which would have probably been a heck of a lot
less appealing to the neighborhood so I don’t think the fact that there is going to be homes is
really going to be that much of the detriment to the other people on Woody. Thank you.

Chairman: Thank you. Those are the only names I have who have signed up on the sign up
sheet is there someone who didn’t sign up who would like to testify. Please come forward and
there should be a piece of paper there for you to put your name and address when you wrap up.

Carl Morris: 3100 North 36th Street – Boise. I live just to the North of that property. I didn’t
have a chance to look at the plan but I understand there is vision to continue the irrigation to that
property. I am the Irrigation Manager for that particular area and my understanding as well is
that irrigation is to be provided in any development that goes in there and I have yet to see
anything from Mr. Truax that he’s filled that need and that was brought up in the appeal as well.
As far as the density goes, there is a higher density project to the North of that property and I
think is partly why we are here. That was something that happened a long time ago I believe in
the 70’s and we don’t want to see it happen again. The density as far as the rest of the
neighborhood goes. It doesn’t match, it’s not lining up with the rest of our neighborhood and we
like it the way it is. I understand Mr. Crowel’s view, he’s got property directly to the South of it,
he’s got a vested interest in this as well, I understand that but as Mr. Gray pointed out when Mr.
Truax is done developing that property he’ll be gone and we’ll be left to deal with whatever he leaves there. I just ask that you guys maintain the lot sizes as they were pointed out earlier and we get the density to an acceptable level. Thank you.

Chairman: Thank you. Is there anyone else who did not sign up who would like to testify? No response. Commissioners do you have any questions for the applicant or staff before we go to their closing remarks? I realize for infill we are not going to have development that matches surrounding development, that’s why it’s infill, the lot sizes though, I see varying lot sizes on these lots from about 3800 most of them, couple of them a little larger it looks like. How does that compare with other infill we have done. If I remember they are a little larger than some we have done is that right?

Cody: Mr. Chairman it really does vary greatly. The minimum lot size in this zone is 5000 square feet. Now the conditional use permit or planned unit development ordinance allows waivers from that for attached units, cluster open space to appropriately provide setbacks into adjoining properties. You have definitely planned unit developments in the R-1C zone with smaller lots than this.

Chairman: Thank you.

Commissioner Cooper: Question for Cody or the applicant. There was a question about what happens at the end of that stub street is that addressed in the application.

Cody: Right now it is just indicated that there will be a new six foot cedar fence along that property line. If there was some redevelopment on that adjoining parcel then that portion of fence…(did not hear the rest of this sentence from the tape)

Commissioner Cooper: Thank you.

Chairman: Other questions? Cody I also wanted to ask you about the setback on the western side I guess is an issue. What was that before the appeal and what is it now?

Cody: The proposed setback to my knowledge hasn’t changed it was 15 before, it is 15 now. Looking at this diagram that is provided on the screen…(could not hear what Cody said here) the opportunity to some of these interior setbacks provide an even greater setback. These wouldn’t be fences. You have 5 feet here (can’t hear). That would be reduced to 8 feet between each structure; there is room to provide another foot here. We could then increase this setback to 20 feet fairly easily and there is opportunity for another 3 feet here to increase that setback. The applicant probably will want to discuss that further.

Chairman: So there are other options there? Was one of the reasons that City Council granted the appeal was because the Council was unhappy with the 15 foot setback?
Cody: I believe the setback was discussed along with the overall transition between structures.

Commissioner Wilson: Mr. Chairman, just a follow-up to your question, at the time that City Council was concerned about the 15 foot setback those were two story buildings on the west side weren’t they?

Cody: It was four 2 story structures that’s correct.

Commissioner Wilson: Okay. Thank you.

Chairman: Further questions? No response. Okay we will next go to rebuttal from the applicant. Excuse me, Cody do you have any closing comments?

Cody: Mr. Chairman I don’t believe so it was kind of all addressed in the questions you had.

Terry Yost: I am an attorney with Gibbons, Pearsley and I represent The Truax Company. My business address is 601 West Bannock – Boise – 83701. I would like to first start of by saying this is a redesign and I think it is important to know what the City Council had concerns about and in this case the City Council really liked this project, this Commission really liked this project, it was redesigned because there was some concerns of Mr. Gray and I would like to address the changes that were made I think it is important to note that the Truax Company has gone out of their way to make and accommodate those changes at the request of City Council. I will start off by saying that the 15 foot setback was not a concern of the Council in terms of this development not getting through Council again if it were redesigned. Their concern with the setback was not that it was on 15 feet it was that there were four 2 story homes and there was not a transition between the four 2 story homes and Mr. Gray’s lots or the western lots. What the Truax Company has done is come in and completely redesigned the western boundary to accommodate Mr. Gray’s concerns. It has got to be certainly much more appealing to have a rose garden and an arbor in your backyard than a 2 story building and that is what the Truax Company came and did. They also reduced the size of those 2 end homes to one story so putting up a modest fence and reasonable landscaping to transition those properties, the 15 foot setback I can assure this commission that the City Council’s concerns have been fully and adequately addressed in that regard. The second issue I would like to address is the size of the lots. This is a PUD, this is infill, this plan is in compliance with the comprehensive plan in fact this particular development is favored onto the comprehensive plan. They aren’t asking for any variances, they aren’t asking for to change the setbacks that are of concern and there is absolutely no reason why this development shouldn’t go forward. Infill development is recommended, the City Council really liked this project, really liked the idea and the concept of this project, the concerns of the Council is to why we are back here on redesign, have all been addressed. The density issue keeps getting brought up; I can’t reiterate to this commission enough that this is modest density. This is 6.6 units per acre, this is modest. The original plan was 8.7 and it’s gone down and the density is what it is there is simply no reason why this would be outside of the comprehensive plan. And certainly the density is not going to impact what’s going on in the neighboring
properties. Cody could you put up the aerial again please and zoom it out just a bit if possible? If the commission can note, two blocks to the north and two blocks to the south are subdivisions that are virtually identical to the Truax’s subdivision proposition so to say that this is way outside the realm of what’s going on in this neighborhood is really a misconception. I think if you look two blocks to the north, two blocks to the south you are going to see pretty much the same type of development. Since the Boise City Comprehensive Plan has changed and infill has become more of a desired amenity I think that what the Truax Company has done has really complied with that and it is making this neighborhood a much more friendly neighborhood environment rather than you know increasing the sprawl increasing whatever the comprehensive plan doesn’t like. The Truax Company has come in and done everything they can to make this subdivision in compliance with the comprehensive plan. Mr. Morris had some concerns about irrigation. Part of the conditions of the development are that we have to provide infrastructure, that infrastructure certainly isn’t going to be taking water from the irrigation company they do have to provide their own water that has been addressed and certainly should not be a concern of Mr. Morris. They are not going to be taking the neighbors water, the irrigation water well have complete infrastructure in this development and again Mr. Morris also had concerns about the density and again I urge the commission to look at what’s around the neighborhood. This is a great development, they have addressed every concern. There was a concern about the trees from the City Council. This cottonwood trees have reached their age of maturation they are becoming a hazard, they are going to be removed but the Truax Company has come in and they are going to be adding vegetation and trees to make up for that. So everything that was a concern of the council has been addressed, staff has approved this, we ask that the commission approve it also. There is really no basis for not approving this subdivision, it is a better subdivision than this council already approved once and just ask that you do it again. Thanks.

Chairman: Thank you. Okay with that commissioners we will close the public hearing you may deliberate toward a decision.

Commissioner Van Ocker: I make a motion that we approve CUP06-00107 along with staff’s recommendations of approval, findings of fact.

Second (did not hear who)

Chairman: We have a motion and a second, any discussion?

Commissioner Van Ocker: Just a few comments. I think we are getting the development better than we had already recently approved. City Council has stated their opinions and has sent this back to us and I think the applicant has done a really good job of addressing the issues and even more issues of the neighborhood. It has come back to us in a better form, hopefully everyone feels as though the process has served them. To deal with the 15 foot setback issue come up on the west, I don’t feel there is any reason to adjust that, I think that efforts have been taken to mitigate that we have gone from 4 structures down to 2, they are now single story homes and in my opinion that is a huge offering to the neighborhood by this developer. Speaking briefly about
the lot sizes, this is a PUD process to have the ability to prove to this commission and staff that they are able to make a development that has reduced minimum lot sizes and I feel that their design is accomplishing that. One of the reasons that we have these criteria is that the front of the structure becomes so narrow that it becomes uncomfortable from a streetscape and I think that the way that they have designed this is that we actually don’t have that situation. This is not going to have that feel of skinny lot houses or row house feel and that is one of the main reasons why we have that in the ordinance. I think they provided the evidence that they needed to provide on the trees obviously those trees are extremely large and have benefited this neighborhood for many many years but they have come to the end of their life and I think that they proved that in hiring the necessary professionals to show that to us and to City Council. So those are my comments if anyone else would like to weigh in.

Commissioner Cooper: Commissioner Van Ocker has covered everything I was going to say, I just wanted to add one thing and that’s the existing house that is going to remain still has a front yard facing 36th street and I’m guessing but it looks like from the aerial photo that a substantial amount of the large planting is in that space so I assume that will stay.

Chairman: Further discussion? Okay the motion is to approve the CUP. Motion carries.

One set of minutes to approve.

Commissioner Wilson: I need to make an addition to page 5. In here it just says that I provided some comments on the writing of the plan and some definitions but what I would really like for City Council to see is that I felt that the plan was written in a very negative way and the example that I gave was in the affirmation for compatibility, it showed two pictures of things that were incompatible but did not show anything that would be compatible and another example I gave was that they said they would be opposed to do any sidewalks unless the property owner really wanted them and it turned out that the reason for that was that they want to try and preserve mature trees and so I suggested that before they go to City Council that they look at the way that their plan was written and just try to put a little more positive spin on it and show what it is they want to achieve as a neighborhood as opposed to what they don’t want to achieve. So if that could be reflected in the minutes I would appreciate it.

Chairman: Okay so noted. And I will note that we discussed last week the newer form of the minutes that are the more paraphrased we are going to go back to the verbatim which I believe we agreed was probably the better route to go. So all those in favor of the approval of the minutes with Commissioner Wilson’s addendum vote I. Motion carries
Meeting adjourned

Approved:

__________________________

Gene Fadness, Chairman
Planning & Zoning Commission

Date:______________________