

## CALDWELL HEARING EXAMINER MINUTES

January 12, 2016

- I. **Call to Order** – Hearing Examiner, Mr. Jerome Mapp, opened the meeting for the public hearing at 7:07 p.m.
- II. **Review of Proceedings** – Mr. Jerome Mapp outlined the procedures for the public hearing.

Members Present: Jarom Wagoner (Senior Planner/Development Team Leader); Brian Billingsley (Planning Director); April Cabello (Planning Technician); and Robb MacDonald (City Engineer).

Members Absent: None.

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### III. Old Business:

- A. Mr. Mapp approved the Minutes of the November 10, 2015 meeting as previously signed by Hearing Examiner Mapp.

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### IV. New Business:

- A. **Case Number ZON-15-09** a request by Caldwell Transportation Department to rezone 7.70 acres, more or less, from R-1 (Low Density Residential) to C-1 (Neighborhood Commercial). The subject properties are located at 3411 S. 10<sup>th</sup> Avenue and 3503 S. 10<sup>th</sup> Avenue in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is seeking approval for a rezone from R-1 (Low Density Residential) to C-1 (Neighborhood Commercial). The subject property consists of the headquarters of Caldwell Transportation Bus Company. They have been located at the site for several years and are considered a nonconforming use. The rezone will bring the site into compliance with current city codes.

Mr. Wagoner further explained staff had met with the applicant Rick Vertrees in regards to a possible office use on the property, currently is a single family residential home and would like to convert it to an office. The issue is with the current zone being single family residential and in order to do the office it would need to be rezoned to C-1, neighborhood commercial. Mr. Vertrees also agreed to rezone all the parcels to bring all parcels into compliance with current city codes instead of continuing the use as a non-conforming use. Staff appreciates the applicant's willingness to bring the property into compliance.

Mr. Wagoner also stated that staff found the application to be in compliance with the goals and policies of the Comprehensive Plan and did not find it to be inconsistent with any of the Comprehensive Plan components.

Rick Vertrees, applicant, 312 Rothbury, Caldwell, ID signed in favor of the application and gave supporting testimony.

Mr. Vertrees stated they would like to rezone from R-1 which has been operating under a special use permit since 1992-1993 and change it to C-1 zoning which will fall better in compliance with everything they do. The changes they are expecting is the property to the north, which they own has the single family home and the plan is to eventually change the house into an office building and expand the maintenance facility behind the house.

Mr. Vertrees gave background on Caldwell Transportation and that it has been in operation for 45 years and actually started in the house that they want to change into an office building. They parked buses behind that house and also where the Caldwell Transportation Office currently sits. In 1992 they bought the property to the south and had received the special use permit to develop the current setup for Caldwell Transportation.

Mr. Mapp asked Mr. Vertrees if they had a neighborhood meeting.

Mr. Vertrees responded yes, the meeting was held on December 14, 2015. Only two neighbors attended and there were no concerns with the rezoning.

Mr. Mapp wondered about the School District and if they have made any comments.

Mr. Vertrees responded that he has personal contact with the School District daily but not about the rezoning. He assumes they would have no objections as they have been at this location for years and will not change.

John Clemenger, 418 Larkspur Ct., Caldwell, ID signed in neutral of the application but did not wish to speak.

Linda Clemenger, 418 Larkspur Ct., Caldwell, ID signed in neutral of the application but did not wish to speak.

JoAnn Lowe, 419 Larkspur Ct., Caldwell, ID signed in neutral of the application and stated her concern about what the C-1 zoning will do to the traffic pattern and will Caldwell Transportation enlarge their bus company. She is concerned the traffic will increase.

Mr. Vertrees gave rebuttal testimony and answered Ms. Lowes concerns.

Mr. Vertrees stated that they do not expect to change or increase busing, they want to meet the current city code. Maybe if the school district grows then in 1-2 more years they might add two buses.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Comprehensive Plan Analysis for ZON-15-09 (Rezone): The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for ZON-15-09 (Rezone): The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for ZON-15-09 (Rezone): The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**RECOMMENDATION FOR ZON-15-09 (REZONE):** The Hearing Examiner **RECOMMENDED** that **Case Number ZON-15-09 IS APPROVED** with conditions:

8.2 - 8.5 as written

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Mr. Wagoner, Senior Planner stated that that the Agenda would be amended to combine Case Number ZON-15-08 and SUP-15-17 together.

**B. & C.**

**Case Number ZON-15-08 and SUP-15-17** a request by Spring Ridge Assisted Living/Dale Amick to rezone approximately 0.48 acres, more or less, from R-1 (Low Density Residential) to R-2 (Medium Density Residential) Zone and for a special-use permit to operate an assisted living facility with up to 16 residents within the R-2 (Medium Density Residential) Zone. The subject property is located at 2310 and 2318 Rice Avenue in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is seeking approval for a rezone from R-1 (Low Density Residential) to R-2 (Medium Density Residential) to allow for a Special-Use Permit to expand an existing assisted living facility. The applicant is seeking special use permit approval to operate an assisted living facility for up to 16 residents within an R-2 (Medium Density Residential) Zone.

Mr. Wagoner gave background on the subject properties stating they currently comprise 2 single family residences. The residence at 2310 Rice Avenue is currently being used as an assisted living facility with a maximum occupant load of 10 persons. The applicant wishes to rezone these properties so as to combine the lots and construct an addition joining the 2 houses and ultimately allow up to 16 residents in the assisted living facility.

Mr. Wagoner stated that staff would recommend reducing the number of required parking spots from 12 to 10.

Mr. Mapp expressed his concern about the R-2 zone and that it opens up to many options. Mr. Mapp stated that he feels it should stay R-1 and will need answers. Mr. Mapp also stated this will need to stay a residential area and look as a residential land use.

Mr. Wagoner responded that to facility the applicant's request, R-2 zoning would be required.

Dale Amick, applicant, 2310 Rice Ave., Caldwell, ID signed in favor of the application and gave supporting testimony.

Mr. Amick testified that the home at 2310 Rice Avenue was built in 1994 as a care facility and submitted exhibit PZ-4 Official Certificate of Occupancy. He purchased the facility in 2010 and his intention was to open up in the back to connect the two properties. The previous owners were a church and used it for several things. Per the neighbors the only issue would be parking.

Mr. Amick further explained the reason why he is doing this is because he has 10 residents and has had several more people come to him wanting to enroll a family member but he is full and he would like to have more people and help people. He also wants the homes to look like residential homes.

Mr. Amick further stated that per the Engineering Department backing into the street is not normal and he disagrees with that comment. He submitted exhibit PZ-5 (2 pictures) pictures of non-conforming uses in the area and is disputing the backing onto the street, the requirement for a 5' sidewalk and parking.

Mr. Mapp wondered about the number of staff on duty at one time and the parking.

Mr. Amick responded that there are seven employees including him. The schedule is two 12 hour shifts, normally 7am to 3pm one cook and one care giver, 3pm to 5pm one care giver, 7 am to 7 pm one care giver and 7pm to 8am one care giver.

Mr. Mapp stated he will not reduce parking space, curb, gutter or sidewalk and asked staff about the sidewalk.

Robb MacDonald, City Engineer, 621 Cleveland Blvd., gave clarification about needing the drive ways and not the parallel parking as the applicant requested.

Mr. MacDonald stated that as a Special Use Permit they felt that sidewalk was appropriate to require because the layout submitted does not show any ADA routes from one building to the other and assuming someone parks in one driveway and need to get to the other side because that is where the entrance is. Staff could not identify any pathways or sidewalks to help facilitate that and felt it was an appropriate request.

Mr. Mapp stated people in walkers and wheelchairs and canes need to have a level walkway.

Mr. Amick responded he needs a walkway up by the building, in front of the parking, not behind the cars.

Mr. MacDonald, City Engineer stated that the parking layout show in the plan is the layout that is not approved. The city parking and drive way requirements are clear that a driveway

width can only be 40 feet and don't allow continuous parking along the whole frontage to back out into the street; it has to be a driveway. The requirement is that a driveway access has to meet the City Standards which is a minimum of 25 feet wide and maximum of 45 feet wide and you could have two of those driveways, one at each building. So the original layout was not approved but if the applicant wanted to widen each driveway to 40 feet wide and use those as a typical residential driveway, that would be okay and in that process the sidewalk would come in along the frontage, the driveways would be updated to meet ADA accessibility. If the applicant has a different proposal for ADA access through the site staff would be willing to entertain that.

Mr. Mapp stated that also brings up that there is no disabled parking space shown on the plan. If this is considered for approval he will defer the parking, sidewalk and ADA compliance over to staff to provide a reasonable parking layout.

Mr. Mapp stated that they must comply with the Fire Departments requirements.

Mr. Amick responded that he has city approval on both and have all the requirements that they are stating in the buildings as it is.

Mr. Amick stated he is aware there are problems with the parking and as long as staff works with him on the parking, along with having bus access from the ramp. It needs to be safe and there is a slope all the way down and would like to even the slope out.

Mr. Mapp stated that he will work with staff to come to an agreement on the conditions.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Mr. Mapp expressed again his concern about the zoning classification of R-2 being a spot zone and based upon staffs testimony that there are a number of non conforming uses within a few blocks of the area. Some have wide driveways, some have duplexes, fourplexes and some other uses and so this use is not standing out separately from them but maybe it is something the city may wish to review in the next year or two about reclassifying that area to comply to what currently exists. No comments have been received from the neighbors, they were noticed and there was a neighborhood meeting and the neighbors must be satisfied because no one came to the hearing and so this is no longer an issue. However Mr. Mapp stated his only other concern is that the applicant will have to put in parking spaces that will take up the majority of the landscaping and is hoping staff can work this out so there is some greenery along the front area. This is being looked at as a residential type use. Sidewalks are important, there must be ambulance and wheelchair access, level surfaces for people using a wheelchair, walker or a cane. Special Use Approval will be subject to City Council approval of the Rezone.

Comprehensive Plan Analysis for ZON-15-08 (Rezone): The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for ZON-15-08 (Rezone): The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for ZON-15-08 (Rezone): The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**RECOMMENDATION FOR ZON-15-08 (REZONE):** The Hearing Examiner **RECOMMENDED** that **Case Number ZON-15-08 IS APPROVED** with conditions:

8.2 - 8.5 as written

Comprehensive Plan Analysis for SUP-15-17 (Special Use): The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for SUP-15-17 (Special Use): The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for SUP-15-17 (Special use): The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**ORDER OF DECISION FOR SUP-15-17 (SPECIAL USE):** The Hearing Examiner **ORDERED** that **Case Number SUP-15-17 IS APPROVED** with conditions:

8.2 - 8.8 as written

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- D. Case Number SUP-15-16** a request by the City of Caldwell Planning & Zoning Department for a special-use permit to construct a public dog park within the R-2 (Medium Density Residential) Zone. The subject property is part of the existing Whittenberger Park located at the intersection of Chicago Street and Centennial Way in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting special use permit approval to construct a city dog park within the R-2 (Medium Density Residential) Zone.

Mr. Wagoner gave background on the subject property and currently is part of Whittenberger City Park. The park will be reconfigured to provide adequate space for the dog park.

Brian Billingsley, applicant, City of Caldwell, 621 Cleveland Blvd., Caldwell, ID signed in favor of the application and gave supporting testimony and a PowerPoint presentation.

Mr. Billingsley reviewed the Dog Park Committee appointed by the City Council in 2015 and introduced the committee members. The committee decided the location and what the standards would be for a dog park. The committee reviewed two parks, Rotary Pond Park Site and Whittenberger Park Site. Whittenberger Park had more Pros than Cons and so the

Committee unanimously selected Whittenberger Park as its #1 choice for a dog park. The City Council endorsed this decision and authorized staff to move forward with the special ups permit application.

Mr. Billingsley stated the park has a budget of \$48,000.00 to get started in the spring of 2016. The City Dog Park will have normal park hours and will be closed from 11pm to 6am.

Mr. Mapp suggested that staff review the deer issue after about a year, come back and see if there anything that needs to be modified or changed. Also the chain link fence posts are to be rounded and the chain will not be sticking up.

Mr. Billingsley stated that is condition 8.3 and he agrees with the comments from the Idaho Department of Fish and Game.

Mr. Mapp shared a couple of ideas for the dog park: water supply/tap for the dogs and doggie receptacles and bags.

Theresa Hardin, 3107 Sunridge Dr., Caldwell, ID signed in favor of the application and gave supporting testimony.

Julie Warwick, 107 S. 13<sup>th</sup> Ave., Caldwell, ID signed in favor of the application and gave supporting testimony.

Gene Gunderson, 1904 Blaine St., Caldwell, ID signed in favor of the application and gave supporting testimony.

Gina Lujack, 2418 Ray Ave., Caldwell, ID signed in neutral of the application and gave supporting testimony.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Comprehensive Plan Analysis for SUP-15-16 (Special Use): The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for SUP-15-16 (Special Use): The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for SUP-15-16 (Special use): The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**ORDER OF DECISION FOR SUP-15-16 (SPECIAL USE):** The Hearing Examiner **ORDERED** that Case **Number SUP-15-16 IS APPROVED** with conditions:

8.2 - 8.3 as written

Adding condition 8.4 review after 2 years of completion of the park of any accounts that may have occurred

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V. Planning Issues – None

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VI. Adjournment

The Hearing Examiner adjourned the meeting at approximately 9:10 p.m.

MINUTES APPROVED AND SIGNED BY THE HEARING EXAMINER, M. JEROME MAPP, ON THE DATE NOTED BELOW:

ATTEST:

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M. Jerome Mapp

Date

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Jarom Wagoner, Senior Planner / Development Team Leader

Date

**For detailed Minutes, please request a copy of the digital recording.**