

Hearing Examiner's Report and Findings

DATE: March 18, 2019

APPLICANT/OWNER NAME: Trevor and Lyle Henderson

MAILING ADDRESS: 410 Yellowstone Avenue, Suite 202
Pocatello, ID 83201

LOCATION OF REQUEST: 216 E. Lawton Street, Pocatello, ID 83201

LEGAL DESCRIPTION: South 65 feet of Lot 5, Block 1, Park Drive

- I. REQUEST:** The request is for variances from the parking standards and lot size standards for the construction of 2 four-plexes at 216 E. Lawton Street, Pocatello. Municipal Code 17.05.570 requires two off-street parking spaces for each residential unit which equates to 16 off-street parking spaces. The applicant is proposing 14 off-street parking spaces. Municipal Code 17.03.240 requires 11,616 feet but the lot measures 10,363 square feet (more or less) an approximately 11 percent lot size variance.

SITE CHARACTERISTICS:

Zoning designation: Residential Commercial Professional

Property size: The lot measures 10,363 square feet (more or less)

Existing structures: None

SURROUNDING LAND USES AND ZONING:

North: Residential dwellings in Residential Commercial Professional and Residential High Density zoning districts.

South: Self-service storage and residential dwellings in Residential Commercial Professional and Residential High Density zoning districts.

East: Residential dwellings in a Residential High Density zoning district.

West: Vacant lot and residential dwellings in a Residential Commercial Professional zoning district.

II. CONCLUSIONS AND CONDITIONS:

Based on review of the Application for the variance, analysis of the staff report, applicants' presentation, no citizen comments in approval of the variances, no neutral comments and four comments opposing the variances, the Hearing Examiner **denies the parking variance and denies the lot size variance.**

III. FINDINGS OF FACT

1. The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the subject property and surrounding area. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner has no personal or professional interest that would not allow an impartial or unbiased decision.
2. A public hearing was held on Thursday March 14, 2019 beginning at approximately 5:30 p.m. and closing at approximately 5:58 p.m.

IV. PROCEDURES AND NOTICES:

1. In accordance with Municipal Code 17.02.170, 17.02.300(A)(3) and Idaho Code 67-6512, a complete variance application was filed with the Planning and Development Services department at least four weeks prior to the public hearing.
2. The application was heard at a public hearing on March 14, 2019 before the Hearing Examiner in accordance with Municipal Code 17.02.300 and Idaho Code 67-6512.
3. Notice of the public hearing was in accordance with Municipal Code 17.02.170 and Idaho Code 67-6512.
 - a. Notices were provided to political subdivisions on February 26, 2019.
 - b. Notices to adjacent property owners of record were mailed on February 26, 2019.
 - c. A sign was placed on the property on February 27, 2019
 - d. The agenda and supporting documentation were posted to the City's website on March 7, 2019.

V. APPLICABLE LAWS AND PLANS:

1. Municipal Code 17.02.170 and 17.02.300
2. 2015 City of Pocatello Comprehensive Plan
3. Idaho Code 67-6512

Type of Action: Quasi-Judicial. The Hearing Examiner may approve with or without conditions or may deny the application.

Municipal Code §17.02.130(E), "Authority to Grant: The hearing examiner may approve with conditions, or deny an application for a variance. The decision may be

5.3
 appealed by the applicant or other affected persons according to the provisions of Idaho Code Section 67-6521 to the City Council pursuant to the process outlined in Municipal Code Section 17.02.400, Appeals, of this chapter.

Municipal Code 17.02.300 states that variances shall be heard and decided on by the Hearing Examiner with an appeal to City Council.

VI. ANALYSIS:

VARIANCE ANALYSIS:

Municipal Code §17.02.170(F), Criteria for Review: The hearing body shall review the facts and circumstances of each proposal in terms of the following standards and determine whether there is adequate evidence showing that the requested use at the proposed location:

1. The applicant shall have taken all reasonable steps to comply with the strict terms of the ordinance from which he or she requests the variance.

Applicant's response: "We have worked with Contractor and Draftsman to position the buildings and off-street parking spaces and even reduced the size of the buildings to reasonably comply with the strict terms of the ordinance(s)."

Staff analysis: The applicant is proposing 2 four-plexes that have two bedrooms each. They are designed to be 2 apartments up and 2 apartments down. The applicant can meet the strict terms of the ordinance if they built one triplex and one four-plex. That configuration requires 10,164 square feet of lot size and 14 off-street parking spaces. Municipal Code also allows the applicant to construct a 45-foot tall structure that could contain all eight units and thereby meet the parking standards and the applicant would need only the lot size variance.

2. The variance sought must be the result of unusual physical characteristics of the site in question.

Applicant's response: "We are just a little short in the area of the lot."

Staff analysis: The site in question is located in a developed area at the intersection of E. Lawton Street and S. 1st Avenue. It is flat and is surrounded by residences, a self-storage facility and a vacant lot. There are no unusual physical characteristics of the site.

3. The circumstances surrounding the variance request shall be due to an undue hardship as related to the characteristics of the land, and the applicant shall show that, absent a variance, he/she would be deprived of rights commonly enjoyed by other properties in the identical zoning district under the terms of this title.

Applicant's response: "It appears that we have sufficient space but for the configuration we can't provide the last 2 parking spaces per unit. In the University Area and close proximity to the Campus, not all residents in the units will have 2 vehicles to park in the parking spaces. Having this 'density' also provides for 'walkers' to utilize the proposed revitalization to the Warehouse

District located 4-5 blocks away. This is very good In-Fill!"

Staff analysis: There is no undue hardship as related to the characteristics of the land. The applicants are desirous of building 2 four-plexes where the lot is not big enough. One structure housing all 8 units or two structures housing seven units could be allowed with parking standards met as well.

4. The undue hardship cited as the basis of a variance request did not result from the actions of the applicant, or the current, or a prior landowner, or any of their agents.

Applicant's response: "The current hardship is not a result from the actions of the applicant or the current or a prior landowner or any of their agents."

Staff analysis: There is no undue hardship. The applicant is wishing a configuration to build units than what the size of the lot will allow.

5. The applicant shall demonstrate that the proposed variance does not adversely affect adjacent/nearby property.

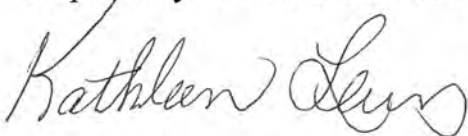
Applicant's response: "The subject 'improvement' is located in a very sparsely populated area of South 1st.Street. For many years an older mobile home was located at this address until it became economically un-repairable. It was hauled off as salvage. And for the last decade it has been a vacant lot. A vacant lot that should be put to a higher and better use adding to the Tax Base. The proposed Use would still be Residential. The Buildings would be no higher than the neighbor's residence to the North. There will be no adverse affects on adjacent/nearby properties."

Staff analysis: Lack of sufficient off-street parking could cause adverse impacts. The area is developed primarily with residential homes with a self-service storage facility directly across Lawton. There are no multi-family housing developments in the immediate area.

VII. APPLICANT NOTICE:

Notice is hereby given that this decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section 67-6521) to the City Council, using the process outlined in Municipal Code Section 17.02.400 pursuant to Idaho Code Section 67-8003 within 10 days after this Decision.

Respectfully submitted this 19th day of March, 2019,



Kathleen Lewis
Hearing Examiner

Hearing Examiner's Report and Findings

DATE: March 19, 2019

APPLICANT NAME: Performance Outdoor

MAILING ADDRESS: P.O. Box 4983, Pocatello, ID 83205

REPRESENTATIVE: Blaze Sign Company

MAILING ADDRESS: 7175 S. 5th Ave., Pocatello, Id 83204

LOCATION OF REQUEST: 507 E. Center Street, Pocatello

- I. REQUEST:** This is a request to install a one-sided electronic off-premises sign (billboard) at 507 E. Center Street the proposed sign is measured to be 12'7" X 22' and 31' high.

SITE CHARACTERISTICS:

Zoning designation: Commercial General with an Original Townsite Overlay

II. CONCLUSIONS AND CONDITIONS:

Based on review of the Application for an Off-premise Sign Permit, analysis of the staff report, applicant's presentation, seven citizen comments in favor, two citizen comments against and four responses two from District 5 Idaho Transportation Department, one from City of Pocatello Street Department and a property owner opposing the off-premise one sided electronic sign, the Hearing Examiner finds that this request does not meet the conditions for an off-premise sign permit. **The Hearing Examiner denies a request** to install a one-sided electronic off-premises sign at 507 E. Center Street.

III. ANALYSIS AND FINDINGS OF FACT:

1. The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the proposed off-premises sign to the property and surrounding area. No "ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner has no personal or professional interest that would not allow an impartial or unbiased decision.
2. A public hearing was held Thursday March 14, 2019 beginning at approximately 6 p.m. and closing at approximately 6:37 p.m.

IV. PROCEDURES AND NOTICES

1. In accordance with Municipal Code 15.20.240 a complete off-premises sign application was filed with the Planning and Development Services department on February 14, 2019
2. Notices were sent to property owners and occupants within a 500-foot radius of the property boundaries on February 15, 2019
3. Two letters in opposition were received requesting a public hearing
4. The application was scheduled to be heard at the March 14, 2019 Hearing Examiner at a public hearing in accordance with Municipal Code 15.20.240
5. Notice of the public hearing was in accordance with Municipal Code 15.20.260
 - a. Notices were provided to political subdivisions on February 26, 2019
 - b. Notices to property owners and occupants within 500 feet of the subject site were mailed on February 26, 2019
 - c. The agenda and supporting documentation were posted to the City's website on March 7, 2019.

V. APPLICABLE LAWS AND PLANS:

1. Municipal Code 15.20.240
2. 2015 City of Pocatello Comprehensive Plan

Type of Action: Quasi-Judicial. The Hearing Examiner may approve with or without conditions or may deny the application.

MUNICIPAL CODE:

Municipal Code §15.20.240states,

- A. Off premises/billboard signs shall only be permitted in Office Park, Light Industrial, Industrial and Commercial General Districts. Permits for signs meeting the requirements below may be issued by staff. However, the following additional requirements shall apply to Commercial General Districts:
1. Applicants for signs in Commercial General Districts must provide a mailing list of property owners and tenants within a five hundred (500) foot radius of the property line to whom notice of the application will be sent by the city;
 2. A twenty-one (21) day waiting period shall be required prior to sign construction or erection, during which time period any aggrieved person so notified may make a written protest to the Planning and Development Services Department for a hearing before the hearing examiner. A decision by the hearing examiner may be appealed to the City Council within fifteen (15) days of the date of the hearing examiner's decision;
 3. No construction or erection of signs shall be allowed pending the outcome of either hearing;
 4. The decision of the City Council shall be final;
 5. The review criteria used by the City Council and the hearing examiner shall be as follows:

The proposed sign must be designed to minimize adverse effects on adjoining land.

Staff analysis: An electronic billboard near a traffic signal increases the adverse effects on adjoining land. It causes a driver distraction by its very nature. It also has the potential to cause problems with the traffic signal's operation as well as "backstopping" the signal head making it difficult to differentiate the signal from the sign. (See attached emails from Mike Neville, City of Pocatello Traffic Operations Supervisor, Brian Poole, Idaho Transportation Department, and Corey Krantz, Idaho Transportation Department Traffic Engineer.)

The proposed sign must be designed to be as compatible in appearance and layout with the adjacent uses as is practical.

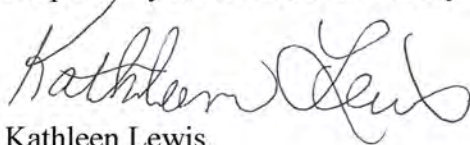
Staff analysis: An electronic billboard at this location will overshadow any business signage that is on the building directly to the south. This is not compatible with the appearance of adjacent land uses.

STAFF CONCLUSION: Staff finds the proposal does not meet the standards as outlined in Municipal Code 15.20.240.

VI. APPLICANT NOTICE:

Notice is hereby given that this decision may be appealed by the applicant or any aggrieved person in writing to the City Council within fifteen (15) days of the date of the hearing examiner's decision. Municipal Code 15.20.240.

Respectfully submitted this 19th day of March, 2019.



Kathleen Lewis
Hearing Examiner

STATE OF IDAHO)
)
) ss
)
County of Bannock)

On this 19th day of March, 2019, before me the undersigned, personally appeared Matthew Lewis, known to me or proved to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Andrea Henderson
NOTARY PUBLIC FOR IDAHO
Residing at: Peacerville
Commission Expires: 3-6-2024