

Hearing Examiner's Report and Findings

**DATE:** June 28, 2021

**APPLICANT NAME:** Pocatello Creek Center

**LOCATION OF REQUEST:** 920 Deon Dr., Pocatello

**REPRESENTATIVE:** YESCO Signs

**MAILING ADDRESS:** 920 Deon Dr., Pocatello, ID 83201

**REQUEST:** Pocatello Creek Center, represented by YESCO, has submitted a request to install a new ground sign measuring eight-foot-nine-inches (8'9") tall and approximately sixty-five (65) square feet.

**PHYSICAL CHARACTERISTICS OF THE SITE:** The subject property is approximately .81 acres of land, is zoned Residential Medium Density Single Family (RMS) and is developed with a Commercial/Professional Plaza, as well as parking facilities.

**CONCLUSIONS AND CONDITIONS:**

Based on review of the Application for a Sign Exception and analysis of the staff report and the applicant's presentation, **the Hearing Examiner approves the request for a sign exception to install a new ground sign measuring 8'9" tall and approximately 65 square feet to be located at the corner of Deon Drive and Pocatello Creek Road, addressed as 920 Deon Drive.**

The following conditions apply:

1. Any standards/regulations not herein noted but applicable under Municipal Code Section 15.20 "The Sign Code" shall be strictly adhered to.
2. The applicant shall submit and secure a sign permit prior to the installation of the proposed signage.
3. The applicant shall submit and secure a sign permit for any and all future signage at the subject property.
4. The two (2) existing signs shall be removed
5. The proposed sign shall be considered in place of the allowed Ground Sign for the Commercial/Professional Plaza as outlined in city code section 15.20.180 B.1. No additional ground signs shall be permitted at the subject sight
6. The subject property shall only be permitted a wall directory sign listing tenants within the premise up to a maximum of thirty two (32) square feet, as outlined by city code section 15.20.180 B.2
7. Individual business signage shall not be permitted other than window signage up to 50% of the glass area and door signage not exceeding six(6) square feet.

**NOTIFICATION:** The application was heard before a Hearing Examiner on June 24, 2021, at a public hearing in accordance with Municipal Code §17.02.300 and Idaho Code §67-6512. Notice of public hearing was mailed to all adjacent property owners of the subject property on June 7, 2021, in order that they may provide comment on the proposed application. No public comment has been received at the time of completion of the staff report.

**I. ANALYSIS AND FINDINGS OF FACT: 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 states that there is nothing personally or professionally that would not allow an impartial or unbiased decision.
2. City Staff did not receive any comments.
3. A public hearing was held on Thursday June 24, 2021 beginning at approximately 5:34 p.m. and closing at approximately 5:48 p.m.

**APPLICABLE MUNICIPAL CODE/COMPREHENSIVE PLAN:**

1. Municipal Code Section 15.20, 15.20.200, and 15.20.260
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 Coder 15.20.260 states, "the hearing examiner has the authority to approve signs with or without special conditions concerning sign size, design, illumination, height, width, landscaping, placement on site, or any other conditions it deems pertinent for sign enhancement. The hearing examiner shall only approve signs and sign structures that are consistent with the purpose set out in section 15.20.010 of this chapter and with the comprehensive plan of the city. "The decision may be appealed by the applicant or other affected persons according to the provisions of Idaho Code Section 67-6521. Said appeal is to the city council pursuant to the process outlined in section 17.02.400, 'Appeals'."

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

**15.20.270 CRITERIA FOR REVIEW:** The Hearing Examiner shall review the facts and circumstances of the request which must be judged in accordance with the standards set forth in Municipal Code section 15.20.270.

Table 1. Sign Exception Review Criteria Analysis

**REVIEW CRITERIA (15.20.270):**

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Compliant			City Code and Staff Review	
Yes	No	N/A	Code Section	Analysis
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>15.20.270 A.</b>	<b>An exception sought should be the result of unique physical characteristics of the site in question.</b>
			<i>Applicant Response</i>	"This building is located on a very busy commercial district, it should have been zoned that way. Yes, there are residential homes behind the building, however, those homes will not have any line-of-site of the new sign as the building and trees will easily block any potential light from the sign."
			<i>Staff Analysis</i>	As the applicant notes, the building is located on a major thoroughfare, however, the building located at 920 Deon Drive is zoned Residential Medium Density Single Family (RMS). As a result, when interpreting the city's sign code, the property is subject to code section 15.20.170 Nonconforming Uses, which states that "legal nonconforming uses located within a residential district may retain existing legal signage. Any new signage for existing nonconforming uses shall be in conformance with the requirements of signage within a Residential/Commercial/Professional (RCP) District."  The site is zoned RMS to the east and a portion to the south, Commercial General (CG) across Pocatello Creek Road to the north, and Residential Commercial Professional (RCP) to the south at the intersection of Pocatello Creek Road and Jefferson Avenue. Staff has determined that there is a unique characteristic at this site related to zoning based on adjacent land uses and nonconforming commercial use on the subject property.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>15.20.270 B.</b>	<b>The applicant shall have taken all reasonable steps to comply with the strict terms of the ordinance from which he or she requests an exception.</b>
			<i>Applicant Response</i>	"The sign will be replacing two sign that are currently on the property and are both none conforming, although the proposed monument sign is slightly over the current limit, this will be a great enhancement to the property. With the amount of traffic along that road, having a sign that is only 32 sq ft would make the visibility and readability very difficult. The design has taken all reasonable steps to minimize the size yet still have the needed effect to let people know where the property is. The sign follows all lighting regulations, only the letters and river will illuminate with more of a halo effect so the amount of light coming from the sign is very minimal."
			<i>Staff Analysis</i>	Staff has determined the subject property to be defined as a Commercial/Professional Plaza, which is defined by Sign Code (15.20.030) as, "a complex (i.e., strip mall, shopping center) housing two (2) or more tenants in a one-story building/buildings. Such a plaza can be defined by common architectural elements, shared street frontages/entrances/parking lots, and/or common ownership. Plazas usually have direct customer access from parking areas."  Pocatello Sign Code section 15.20.180 permits the following types of signage for Commercial/Professional Plazas with two of more tenants:  One directory type ground sign shall be permitted per street frontage for

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			<p>the listing of all tenants who have offices/businesses within a premises. The sign shall not exceed thirty two (32) square feet in copy area and be no closer than five feet (5') to the property line. In addition, the sign shall not exceed six feet (6') in height from the adjacent grade and if constructed within a sight triangle, signage is not exceed three feet (3') in height.</p> <p>Wall Sign: A wall directory sign, for listing all tenants who have offices/businesses within a premises, shall be permitted up to a maximum of thirty two (32) square feet.</p> <p>The proposed sign height is 6' 10" from the grade with the concrete pillar/frame reaching a height of 8' 9". The dimensions of the sign itself are 12' 2" in length and 5' 2" in height for a total square footage of approximately 65 square feet. The applicant has reduced the overall size and square footage of the signage that was initially proposed, however, staff has determined that the applicant has not taken all reasonable steps to comply to the strict terms of the ordinance.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>15.20.270 C.</b></p> <p><b>The circumstances surrounding the request shall be extraordinary as related to the applicant's land and the reasonable use thereof.</b></p>
			<p><b>Applicant Response</b></p> <p>"This property really should have been zoned commercial, once again, there are homes behind the building but the building and trees block and potential nuisance light. The signs directly across the street are upwards of 35' tall and tower over this property. The proposed sign will only help serve community."</p>
			<p><b>Staff Analysis</b></p> <p>The subject property is zoned Residential Medium Density Single Family (RMS) and fronts an arterial road, with residential homes adjacent. The subject site and use is most consistent with the Residential/Commercial/Professional (RCP) District. Code section 17.03.300 List of Zoning Districts states "The RCP zoning district is intended to accommodate a mix of residential, professional office, and neighborhood commercial uses including business/professional services, convenience retail, personal services, and restaurants, in close proximity to residential areas and major transportation facilities. Residential uses are permitted consistent with the density and requirements of the RH zoning district. Heliports, medical centers, and some utilities are conditionally permitted. Developments in the RCP zoning district may be used to serve as a buffer between residential areas and commercial and/or industrial areas." The applicant may reasonably utilize the property for commercial use as has been done in the past.</p>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><b>15.20.270 D.</b></p> <p><b>The applicant should show that, absent an exception, no reasonable identification of the subject land remains.</b></p>
			<p><b>Applicant Response</b></p> <p>"As mentioned earlier, with the amount of traffic in the area, going any smaller with the sign will make it very difficult to identify the property, this will make it difficult to make the needed adjustments to navigate to the property. Having a well-marked location helps to mitigate last second/knee jerk reactions that are one of the main causes of accidents"</p>
			<p><b>Staff Analysis</b></p> <p>Although early identification of Pocatello Creek Center may be beneficial in navigating the property, the proposed sign does not identify the individual</p>

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				businesses located within the Commercial/Professional Plaza. See response to criteria B for what will be permitted for individual businesses. In addition, the applicant has noted that current signage will be removed, which in total among two signs makes up approximately 66 square feet. The removal of existing nonconforming signage and installation of the proposed signage will reduce the degree of nonconformity on the subject property. Staff finds that the applicant would have reasonable identification of the subject land while still complying with the sign code.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>15.20.270 E.</b>	<b>The applicant for an exception shall show how the proposed exception has been designed to minimize adverse effects on adjoining land.</b>
			<i>Applicant Response</i>	"The actual height of the sign is lower than the existing sign that is replacing, and much lower than the sign that is being permanently removed. The two existing signs are very old and falling apart, the new building owners could put new faces in those signs but this would just continue the "adverse" effect that is there now. The new monument sign will enhance the property."
			<i>Staff Analysis</i>	<p>The proposed signage may be lower than the existing sign that it is replacing, however, based on staff records the sign was approved in 2004 and only makes up 15.5 square feet of copy area, which is much smaller in scale than the proposed sign. Prior signage at this specific location had been for an individual business which is not permitted by code on the subject property. The pole sign located on the subject property is also not permitted by code. The sign will be located out of the defined sight triangle per sign code section 15.20.030, which states "A triangular shaped forty foot by forty-foot (40' x 40') portion of land established at any ingress/egress in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. On private property the sight triangle includes the triangular shaped portion of land defined above and established at any ingress/egress in which greater than three feet (3') in height is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the ingress/egress. See typical sight triangles at street/driveway ingress/egress diagram below."</p> <p>Currently, Municipal Code section 15.20.180 allows for one ground sign which is to be common signage, not to exceed thirty-two (32) square feet in copy area and shall not exceed six (6) feet in height. Municipal code section 15.20.030 defines common signage as "signage which identifies the name of a mall, plaza, professional building, or other multiuse facility as well as collectively advertising individual businesses/tenants located within the complex. These signs commonly feature a "directory style" listing."</p>
			<b>15.20.270 F.</b>	<b>The proposal must be in conformance with the purpose set forth in this chapter.</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Applicant Response</i>	"Pocatello Creek Center (as it is now called) has recently changed ownership, the new owners would like the opportunity to have name recognition along Pocatello Creek Rd to help identify where their business is. The property currently has two non-conforming signs that are very

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			<p>outdated and in need of much repair. They would rather remove the two non-conforming signs and install this one new monument sign. This business center is located on one of the busiest roads in Pocatello, the road has two lanes in either direction with an added turn lane. Due to the language in the city sign code, and very odd zoning of this property, they would only be allowed a 32 sq ft sign, this would, in no way, offer the needed visibility for motorists to make needed adjustments so as to navigate to the property. This is also very odd given the location of this property, all adjacent properties have signs that either are allowed, or have been granted permission to have signs that far exceed this restriction. Without an exception there is no reasonable way to identify the property. The proposed sign is very well thought out to complement the building and not be overbearing, the letters and logo will only halo illuminate to create a very pleasant viewing experience."</p>
		<p><b>Staff Analysis</b></p>	<p>Municipal Code section 15.20.10 states that the purpose of the sign code is to "promote the public health, safety and general welfare by regulating existing and proposed signage. It is intended to protect and enhance the physical appearance of the community, reserve the scenic and natural beauty, provide an enjoyable and pleasing community, protect property values, and create an attractive economic and business climate. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over the public right-of-way, provide more open space, and curb the deterioration of natural beauty and the community environment." Staff finds that the proposed signage does not drastically conflict with the purpose of the sign code.</p>

Respectfully submitted this 28th day of June, 2021,

Kathleen Lewis  
Hearing Examiner

OFFICIAL STAMP

CITY OF POCATELLO

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CITY OF PORTLAND

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 STATE OF IDAHO )  
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 ss  
 County of Bannock )

On this 29 day of June, 2021, before me the undersigned, personally appeared Kathleen 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.

(SEAL)



TERRI NEU

NOTARY PUBLIC FOR IDAHO

Residing at: Pocatello

Commission Expires: 1/18/2025