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Hearing Examiner's Report and Findings

DATE: November 16,2020

APPLICANT/REPRESENTATIVE NAME: YESCO

MAILING ADDRESS: 1530 Sunnyside Rd, Idaho Falls, ID 83402

PROPERTY OWNER: Maverik, Inc. / Doug Meldron

MAILING ADDRESS: 185 S. State Street, Ste. 8; Salt Lake City, UT 84111

LOCATION OF REQUEST: 3400 S. 5th Ave, Pocatello, ID.

TYPE OF REQUEST: This is a request for a sign exception. Maverik, Inc. represented by YESCO requests a sign exception regarding the height of a proposed highway pole sign at 3400 S 5th Ave. The applicant is proposing an 80' highway pole sign which exceeds the 60' maximum height of such sign.

PHYSICAL CHARACTERISTICS OF THE SITE: The subject property is zoned Commercial General (CG) and located at the intersection of Interstate-15 and South 5th Avenue. The property is currently being redeveloped to include a Maverik fuel station and convenience store

CONCLUSIONS AND CONDITIONS:

Based on review of the Application for a Sign Exception and analysis of the staff report, applicant's presentation, **The Hearing Examiner approves the request** for a sign exception to install an 80' highway pole sign at 3400 S 5th Pocatello with the following conditions:

1. Any standards/regulations not herein noted but applicable under Municipal Code Section 15.20 "The Sign Code" shall be strictly adhered to.
2. A sign permit application for all signage shall be submitted per Municipal Code section 15.20.100.

ANALYSIS AND FINDINGS OF FACT:

1. On November 9, 2020 the hearing examiner visited the site where the sign exception is proposed. I have had no "ex-parte contacts and there is nothing personally or professionally that would not allow an impartial or unbiased decision.
2. Notice of the public hearing was mailed to all adjacent property owners on October 20, 2020 to allow for any aggrieved party to comment regarding the application.
3. A Public Hearing was held on November 12, 2020 beginning at 5:31 p.m. and closing at 5:37 p.m. No citizens attended the public hearing and no written comments to the sign exception request were submitted. The applicant made his presentation followed by staff's review of the application.

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MUNICIPAL CODE

1. Municipal Code §15.20.190, §15.20.250, §15.20.260 and §15.20.270
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 §15.20.260(B) 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 condition 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. A ten day appeal period will take place after the hearing examiner's decision is made available to the public.

SIGN EXCEPTION FINDINGS

A. An exception sought should be the result of unique physical characteristics of the site in question.

Applicant's Response: "The site lies in an area where the site elevation is below the elevation of the surrounding area. The elevation and the existing vegetation on surrounding property makes a 60' unreasonable for the property. (Please see page 5 on the included sign survey)"

Staff Analysis: The subject property is located at the base of a 40-foot-tall exposed cliff face. Additionally, I-15, which sits adjacent to the subject property, is elevated above the surface of the property. The visibility of the property is further reduced for northbound traffic on I-15 due to vegetation along the interstate. These characteristics of the landscape could cause difficulty in visually identifying the property owner's services to travelers on I-15 in time to safely exit the interstate. This is especially true for northbound traffic.

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

Applicant's Response: "An extensive study has been completed where Maverik has contracted with YESCO to conduct a Site Flagging to take place. A mock-up sign was raised from a crane to the height required by ordinance at several possible locations and it was determined that the location shown in the proposed sign survey shown on pages 4 & 5."

Staff Analysis: The applicant has demonstrated due diligence in striving to adhere to the strict terms of the ordinance in finding locations on the property where a 60' highway pole sign would

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be visible on the interstate. The applicant has determined that a 60' tall sign would not be visible to northbound traffic before passing the interstate off-ramp due to property elevation and vegetation along the interstate. It is for this reason that the applicant has sought for a sign exception to allow for an 80' tall highway pole sign.

C. The circumstances surrounding the request shall be extraordinary as related to the applicant's land and the reasonable use thereof.

Applicant's Response: "The literal enforcement of the [Sign Code] does in fact cause an unreasonable hardship for the property owner. A 60' sign at the location proposed would not be viewable by northbound traffic on I-15 at a reasonable distance which would allow drivers to safely exit the freeway. The Maverik relies on freeway traffic as its primary source of customers."

Staff Analysis: The applicant has reasonable use of the property without the sign exception.

D. The applicant should show that, absent an exception, no reasonable identification of the subject land remains.

Applicant's Response: "As shown in the attached documentation it isn't reasonably possible to see a 60' sign and safely maneuver to the exit from either travel lanes on I-15. This causes a possible traffic safety issue in exiting the freeway before the exit ramp starts."

Staff Analysis: The applicant has shown in their submitted application materials that signage is not visible to northbound traffic before the northbound off-ramp. It is for this reason the applicant seeks a sign exception.

E. The applicant for an exception shall show how the proposed exception has been designed to minimize adverse effects on adjoining land.

Applicant's Response: "The spirit of the [Sign Code] will be upheld if the [sign exception] is granted. The [Sign Code] is there to ensure the health, safety, and general welfare of the citizens and allow for the organized and sustainable economic development of the city (see Pocatello City 15.20.010 Statement of Purpose). This [sign exception] asks only for an increase in the allowable maximum height of one pole sign. The [sign exception] also improves the economic viability and adds a dramatic improvement from the property's current uses."

Staff Analysis: The applicant seeks for an 80' highway pole sign which exceeds the 60' height maximum. All other applicable requirements identified in the sign code, including but not limited to sign placement standards shall be strictly adhered to.

F. The proposal must be in conformance with the purpose set forth in this chapter.

Applicant's Response: "The literal enforcement is not necessary to carry out the general purposes of the Zoning Ordinance in this case. The City realizes that there are areas that have unique characteristics that require special treatment in the ordinance. That is what section 15.20 focuses on. The ordinance could not foresee all eventualities and could not account for physical

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characteristics associated with a single lot. The health, safety and general welfare which are protected by the ordinance will not be adversely affected by this [sign exception].”

Staff Analysis: 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 CONCLUSION: Staff finds the proposal is not compliant with all applicable standards of Pocatello Municipal Code §15.20.250.

Respectfully submitted this 16th day of November 2020.


Kathleen Lewis
Hearing Examiner

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OFFICIAL RECORD BK#
BANNOCK COUNTY IDAHO

RECORDED AT REQUEST OF
FEE DEPUTY

CITY OF POCATELLO

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