



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission Meeting of 23 FEBRUARY 2016 Public Hearing No. 6

Analyst: Robert Hobbs

Applicant(s)/Engineer(s):
David Kendall

File(s): CUP 2139-16

Requested Action Approval(s) and Location:

1. Conditional Use Permit Approval:

To authorize construction of a duplex on a given parcel of land...

Pertaining to:

Property [land] addressed as 322 Smith Avenue (a .46 acre portion of Section 21, T3N, R2W NW Westview Tax 1 Lot 23 less Tax 02746 less road in a RS 6 zoned area of land -- hereinafter the "Property")...

History:

On March 01, 2007, a request for extension of the 2006 approval (with conditions) of a CUP related to construction of a duplex on the Property was approved by the Commission. The CUP was then extended until March 01, 2008. Precedent to the CUP's expiration, a new CUP was filed to modify the first, to request approval of two 2-unit townhouses in lieu of the single duplex formerly approved. That request was approved on March 27, 2008 by the Commission with conditions but has since lapsed.

CONDITIONAL USE CONCLUSIONS OF LAW

Relevant **Conclusions of Law** for a/**this** Conditional Use Permit hearing item:

- A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.**

- B. That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.**
- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

COMMENTARY

Cities and counties in this country have for the past 100 or so years adopted and then administered zoning laws. Such laws, colloquially termed “codes”, are designed, in part, to help ensure orderly community population and structural growth, predictability of development rules, the upholding of property values, protection of the public’s health, safety and welfare, fair regulation of land use, and so forth. The level of detail of any such code, and, its aptitude in balancing the vested rights of individual property owners with those of their neighbors, varies from jurisdiction to jurisdiction.

Idaho, in the 1970s, adopted a set of laws to generally govern land use and development in the state. Said laws are collectively titled the “Local Land Use Planning Act” (I.C. 67-6501 et al). At the time of adoption, it was provided that cities and counties could choose to enact their own set of zoning laws and empower planning and/or zoning commissions to make certain land use related decisions. Nampa adopted a zoning ordinance many years ago and both renewed and revamped its ordinance in 1971. Since that time, varying amendments to the same have been passed into law. Commensurate with other zoning ordinances, Nampa identifies a number of possible land use types and establishes the permissibility of those uses within given land use districts (zones) that overlay the community. Uses thus may be deemed as permitted/allowed by right, not allowed/prohibited, or, allowed upon issuance of a “Conditional Use Permit” (N.C.C. § 10-25).

Conditional Use Permits (CUPs) are a common implement used by zoning codes and authorities to facilitate review of a given (or proposed) land use in a proposed location to ascertain the use’s perceived [future] compatibility with neighboring land uses as considered from a variety of view points and based upon a number of determined facts. Conditional Use Permits commonly invoke some form of formal review by a city or county, often requiring at least one public hearing. Nampa requires a public hearing to review those land uses that require Conditional Use approval (N.C.C. § 10-25-14).

A hearing allows vetting of any concerns of the public, the governing jurisdiction’s departments, or that of outside agencies. Such a hearing is used in part to discover land use related impacts that may stem from the proposed use and, if necessary, to levy any reasonable mitigations perceived necessary to keep the proposed use and the environment around in harmonious co-existence.

Duplexes have routinely required (since 1971) conditional use review prior to being allowed in any of the various single-family residential zones in Nampa. In reviewing duplex applications, concerns often arise when discussing their propriety/compatibility with surrounding residential development in a given location. (For example, past CUP approvals referenced in the “history” paragraph of this report were granted in spite of opposition by neighbors.) A copy

of the 2006 and 2008 Staff reports (with exhibits), City “decision/action” letters (substitute FCOs) and hearing minutes are hereafter attached to serve as a means for the Commission to contrast what was previously approved for development on the Property versus what is currently being proposed. Copies of the Applicant’s site plan and the concept front (east) wall elevation for the newly proposed duplex are also attached to this report.

The area surrounding the Property has a mix of residential uses, both multi-family and single-family as well as open land. Given the depth of the Property, the depth of abutting parcels (and corresponding distance to structures thereon, the abutment of multi-family structures to the south and possible east, the Elijah Drain to the west, past CUP issuance precedent, [in this matter] the principle of providing for transitional uses, and lack of RD zoning available on adjoining property (though it is nearby) it is possible to argue for the duplex from a zoning standpoint. Site access issues are known to the Applicant, as are improvement requirements for the same.

Staff has provided the Commission with all of the information we have regarding the application according to what was submitted. No departmental comments, outside agency comments or public comments (other than from City Engineering – see attached) have been provided to Staff as of February 17, 2016 in reference to this newest CUP request for the Property.

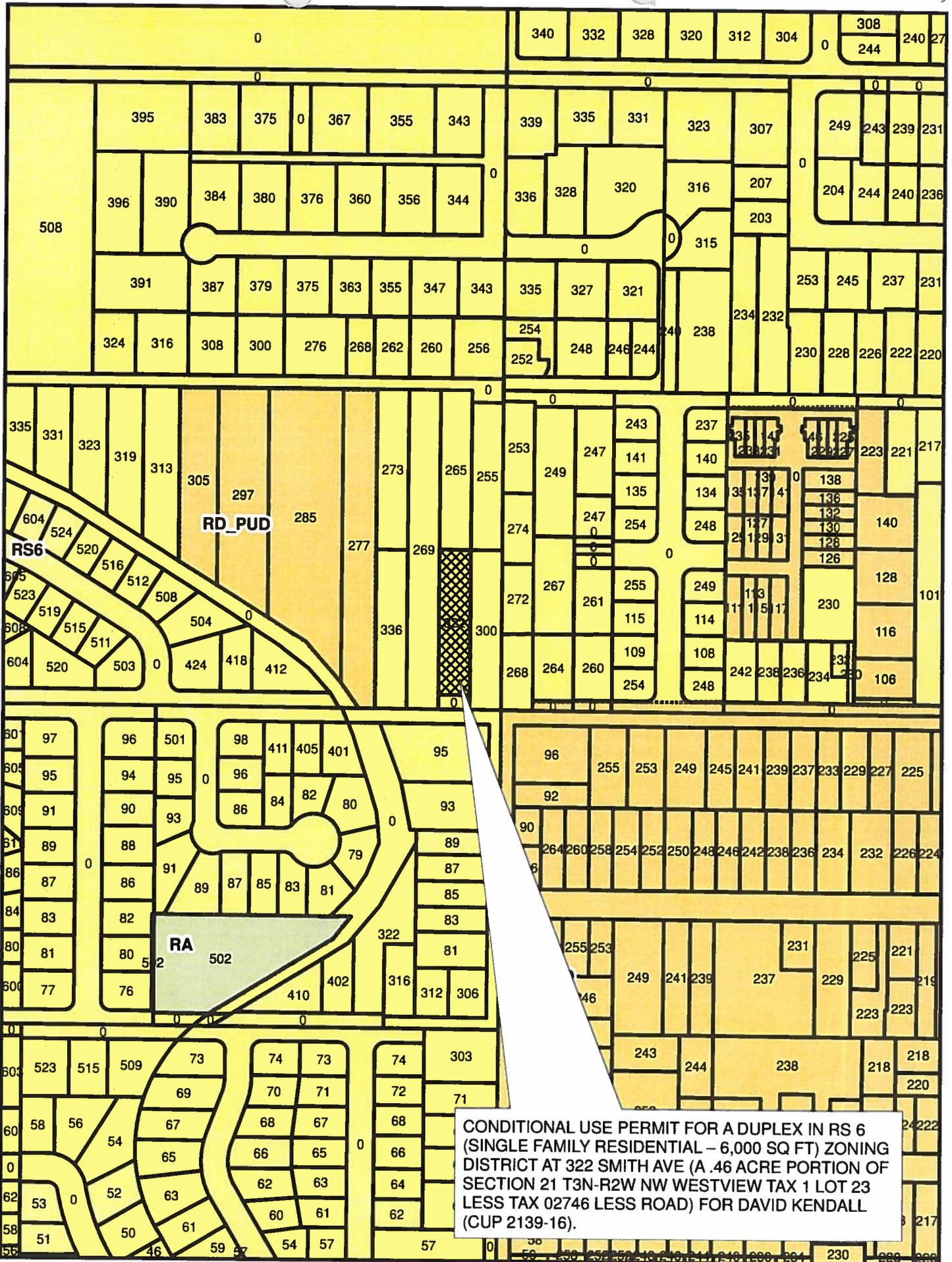
RECOMMENDED CONDITION(S) OF APPROVAL

Should the Commission vote to approve the requested Conditional Use, Staff would then recommend that the Commission consider imposing the following Condition(s) of Approval on the Project/applicant(s):

1. Owner/operator/Applicant(s) shall comply with all applicable requirements (including obtaining proper permits and making requisite site improvements) as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa City Clerk, Fire, Building, Planning and Zoning and Engineering Departments, etc.) as well as state or federal agencies/departments that may be involved in this matter as the CUP approval does not and shall not have the affect of abrogating requirements from those agencies/departments....
2. Any other conditions imposed by the Commission or by City departments or outside agencies in relation to the/this CUP request...

ATTACHMENTS

- Zoning and location Vicinity Map
(page/Exhibit 5)
- Copy of CUP application
(page/Exhibit 6)
- Copies of Applicant's site plan and concept front wall elevation
(pages/Exhibits 7-8)
- Copies of aerial photo of Property and surrounds
(pages/Exhibits 9-13)
- Copies of 2008 [townhouse pair] CUP related extension letters, City decision/action letter, CUP Permit, CUP concept site plan/building elevations, Commission hearing minutes, Staff report, CUP application
(pages/Exhibits 14-28)
- Copies of 2006 duplex CUP Staff report and associated Vicinity Map
(pages/Exhibits 29-31)
- Copy of agency/department correspondence
(pages/Exhibits 32+)



CONDITIONAL USE PERMIT FOR A DUPLEX IN RS 6 (SINGLE FAMILY RESIDENTIAL - 6,000 SQ FT) ZONING DISTRICT AT 322 SMITH AVE (A .46 ACRE PORTION OF SECTION 21 T3N-R2W NW WESTVIEW TAX 1 LOT 23 LESS TAX 02746 LESS ROAD) FOR DAVID KENDALL (CUP 2139-16).



Application for Conditional Use Permit

City of Nampa, Idaho

6

2/23 F2
ROBERT

This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by the appropriate fee of \$234.00 (1 acre or less) or \$463.00 (more than 1 acre).

Name of Applicant/Representative: David Kendall Phone: 208-442-0677
Address: 4221 Montgomery Ln City: Nampa State: Id Zip Code: 83686
Applicant's interest in property: (circle one) Own Rent Other _____
Owner Name: Same Phone: " " _____
Address: " " " " City: " " State: " " Zip Code: " " _____

Address of subject property: 301 Davis Smith

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement.

Subject Property Information

(Please provide the following REQUIRED DOCUMENTATION to complete the CUP):

- Original Legal description of property AND a legible WORD formatted document. (Must have for final recording) Old or illegible title documents will need to be retyped in a WORD formatted document
- OR, Subdivision _____ Lot _____ Block _____ Book _____ Page _____
- A sketch drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas, preliminary or final building plans and building elevations, together with any other information considered pertinent to the determination of this matter.

Project Description

State (or attach a letter stating) the reason for the proposed Conditional Use Permit: construction of one duplex

Length of time requested for the Conditional Use Permit: _____ Months and/or _____ Years. was with land

Date conditional use is expected to begin after permit is granted: _____/_____/_____.
Please note: Conditional use permits expire if not used within six (6) months after granting.

Dated this _____ day of _____, 20 _____

David W. Kendall
Signature of applicant

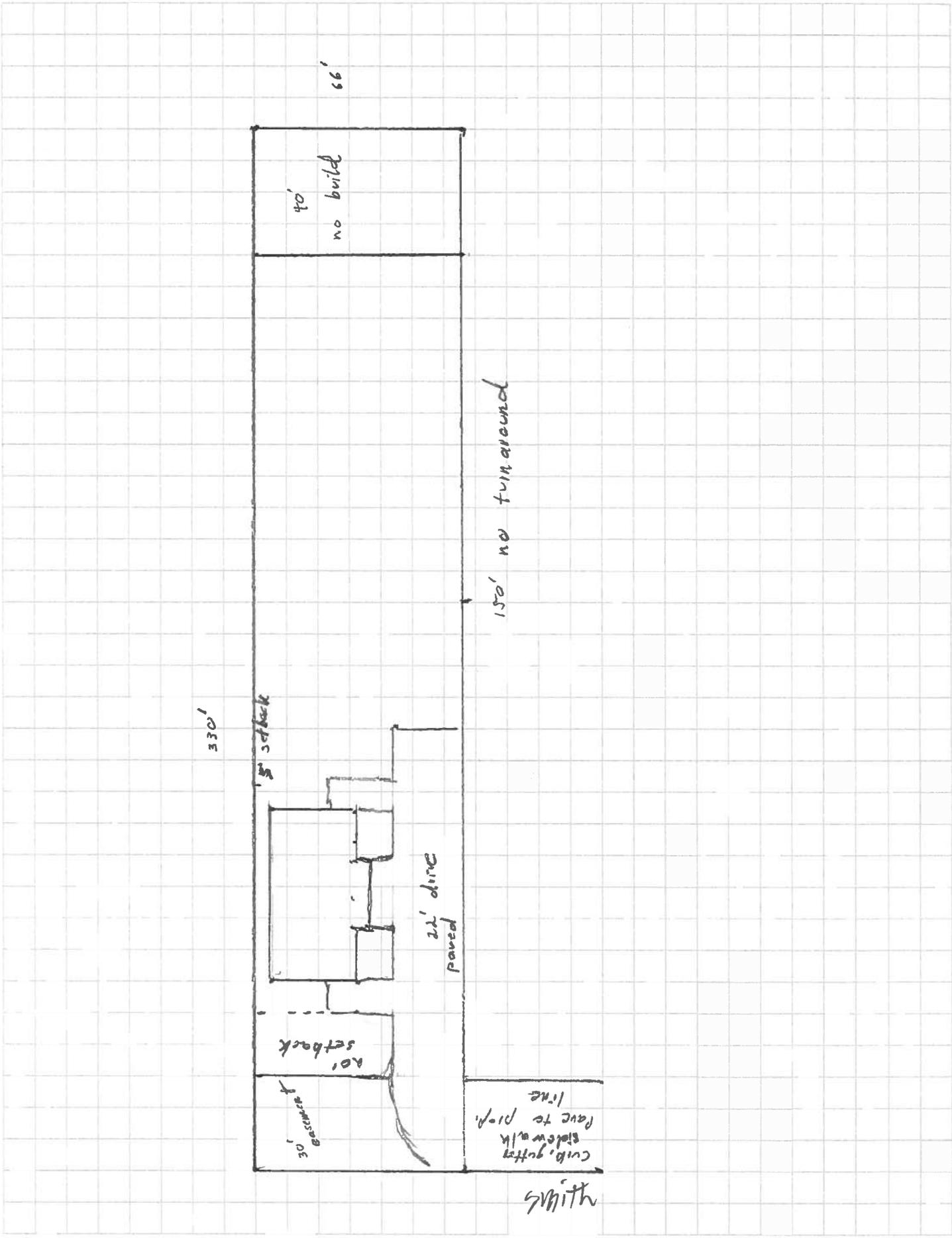
Notice to Applicant

This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and it shall be granted or denied. Notice of public hearing must be published in the Idaho Press-Tribune 15 days prior to said hearing. Notice shall also be posted on the premises not less than 1 week prior to the hearing. Hearing notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearing and should be present to answer any questions.

If a Conditional Use Permit is granted by the Planning Commission it shall not become effective until after an elapsed period of 15 days from the date of Planning Commission action. During this time any interested person may appeal the action to the City Council. You will be notified of any pending appeals.

If the conditional use permit is denied by the Planning Commission, you may appeal the decision to the City Council within 15 days from the date such action is taken by the Planning Commission. At the time the Conditional use permit becomes effective you will be sent a document which constitutes an official "Conditional Use Permit". This document will enumerate the conditions attached to the issuance of the permit and state the consequences of failure to comply.

For Office Use Only:
File Number: CUP 2139 -2016 Project Name: CUP Davis Duplex



54'





39

SITE

10



94 N Stanford St
Memphis, TN 38103
31° 7' 10" N, 89° 52' 13" W

11



Hide images

12



267 Davis Ave
Map data © 2013
Street View: Aug 2013

13



Map data © 2013

Planning & Zoning Department

Nampa, Idaho... Today's Vision is Tomorrow's Reality

14

August 27, 2008

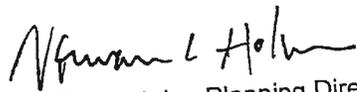
Jeff Wherry
4440 Blaine Rd.
New Plymouth, ID 83655

Subject: Request for a 6-month extension of Conditional Use Permit for 2 Two-unit Townhomes (four dwelling units total) in an RS 6 (Single Family Residential – 6,000 sq. ft.) zoning district at 322 Davis Ave. (A .46 acre portion of Lot 23 of Westview Subdivision in the NW ¼ of Section 21, T3N, R2W, BM) issued 3/27/08.

Dear Mr. Wherry:

Please be advised that the Nampa Planning & Zoning Commission in regular session on August 26, 2008 voted to approve your request for a 6 month extension of the above conditional use permit issued March 27, 2008 extending the validity of the Conditional Use Permit from September 27, 2008 to March 27, 2009. Should you have any questions, please feel free to contact me.

Sincerely,



Norman L. Holm, Planning Director
City of Nampa

15

Planning & Zoning Department

Nampa, Idaho... Today's Vision is Tomorrow's Reality

April 30, 2008

Mr Jeff Wherry
4440 Blaine Rd
New Plymouth, Idaho 83655

Re: Conditional Use Permit Modification Approval to allow construction of two 2-unit townhome structures (four dwelling units in total) at 322 Davis (Smith) Ave

Dear Mr Wherry

Enclosed please find a copy of the signed Conditional Use Permit for modification approval to allow construction of two, 2-unit townhome structures (four dwelling units in total) in an RS-6 (Single Family Residential – 6000 sq ft minimum lot size) zoned property located at 322 Davis (Smith) Ave, Nampa.

The original has been sent for recording.

Sincerely,



Sylvia Mackrill
Planning Department

enc

sm

Project: 07.1-0845

Planning & Zoning Division

Nampa, Idaho... Today's Vision is Tomorrow's Reality

March 13, 2008

Mr. Jeff Wherry
4440 Blaine Road
New Plymouth, Idaho 83655

Re: Request for a Conditional Use Permit Modification approval (from 07.1-06216) to allow construction of two, 2-unit townhome structures (four dwelling units in total) in a RS6 (Single Family Residential—6,000 sq. ft. min. lot size) Zone at/on property currently addressed as 322 Davis Ave. in Nampa (said property being a .46 acre portion of Lot 23 of Westview Subdivision in the NW ¼ of Section 21, T3N, R2W, Boise Meridian – hereinafter the "Property") for Jeff Wherry; File/Case No. 07.1-0845

Dear Mr. Wherry:

The Nampa City Planning and Zoning Commission, during their regularly scheduled public hearing of March 11, 2008, voted to approve the above referenced request. The Commission made their approval contingent on developer/development compliance with the following conditions:

Generally: As affecting site/Property development and structure construction:

1. Applicant(s) shall comply with all applicable requirements (including obtaining proper permits and dedicating any needed right-of-way to the City) as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc.) as the CUP approval does not and shall not have the effect of abrogating requirements from those agencies.

Particularly, applicant/Project shall comply with requirements listed in the November 08, 2006 memorandum (copy hereto attached) from the Nampa Engineering Department authored by Daniel Badger (except that the 50' "no build" line noted therein taken from the northern property line of the Property may be reduced from 50' to 40' per Mr. Badger and the Commission) and also the requirement listed in the February 13, 2008 email printout from the Nampa Fire Department authored by Brent Hoskins (copy hereto attached);

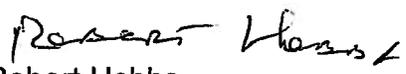
- 17
2. In order for this approval to be valid and in force, a Building Permit to begin construction of one or both of the two-unit townhouses must be applied for and issued by the City within six months from the date of the Commission's approval of this application and after the associated appeal period (15 days) for this matter has lapsed. For the Conditional Use Permit to then remain in effect shall require that the applicant(s) maintain a valid Building Permit for or on the project located on the subject Property;
 3. The two-unit townhouse/duplex designs, construction and site layout shall conform to the conceptual plans presented to the Commission during their regularly scheduled public hearing of March 11, 2008; Correspondingly, plans submitted for Building Permits for the structures shall match those approved on March 11, 2008 by the Commission. A copy of those plans are hereto attached;
 4. Paving of the shared service drive that accesses the structures approved by this CUP shall be paved as shall the parking spaces in accordance with Nampa City Code 10-22. Paving shall be accomplished during the structure(s) construction and will be a condition of gaining (a) Certificate of Occupancy(ies);
 5. This permit is transferable to subsequent owners of the Property as it "runs with the land";
 6. Dedication of right-of-way, as may be required by the City Engineering Department, shall be provided at time of Building Permit issuance;
 7. Developer shall cause that site/Property access and site preparation be kept free of litter and debris, that dust control be conducted on the Property as needed to reduce its drift onto neighboring properties; and, that Smith Avenue not be blocked off save as required for installation of utility lines and street improvements as required and approved by the City Engineering Department and regulated by the same agency; and, in (accordance with City of Nampa adopted site development standards) that stormwater and water runoff be kept on site during and after construction; and, that any irrigation flow through/across the Property be maintained for down system users;
 8. Developer shall emplace a 6' high, solid screen privacy fence along the entire northern side of the Property prior to any structure on the Property being allowed a Certificate of Occupancy...

Please note that Conditional Use decisions may be appealed within 15 calendar days from the date of the Commission's decision. Either the applicant or an aggrieved party may file an appeal with this office at which time the

Conditional Use ruling would be considered suspended until resolution of the appeal before the City Council or a court of law. The 15-day appeal period for this matter will terminate at 5:00 p.m. on **March 26, 2008**. Also note that a subdivision plat will have to be filed and approved on the Property in order to create the townhouse project desired and presented to the Commission.

If you should have any questions concerning this matter, please contact me during normal business hours Monday through Friday at 468-5547.

Sincerely,


Robert Hobbs
Assistant Director

GRH/rh

cc: Evelyn Grime
Place! Inc.
100 Main Street, Ste. 201
Boise, Idaho 83702

Norm Holm, Planning & Zoning
File No. 07.1-0845

CONDITIONAL USE PERMIT

A Conditional Use Permit is hereby granted by the City of Nampa for the following described real property located within the City limits of Nampa, Canyon County, Idaho, more particularly described as follows, to wit:

**322 DAVIS AVENUE (ADJACENT SMITH AVE), NAMPA
(Legal Description Attached)**

The City of Nampa issues this Conditional Use Permit on the basis of the following findings:

- A. The above described property is situated within zoning district: **RS-6 (Single Family Residential – 6000 sq ft minimum lot size).**
- B. Nampa Municipal Code 10-25-4 permits within the above zoning district the conditional use of: **Two, 2-Unit Townhome Structures (four dwelling units in total).**
- C. The permitted use will be compatible with the existing zoning district and/or enhance or serve the community if, and only if, the following regulations are continuously met by the owner, his heirs and assigns, in the use of the above described property:
 - 1. **Applicant(s) shall comply with all applicable requirements (including obtaining proper permits and dedicating any needed right-of-way to the City as may be imposed by City agencies appropriately involved in the review of this request (e.g. Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc) as the conditional use permit approval does not and shall not have the effect of abrogating requirements from those agencies.**
 - a. **Particularly, applicant/Project shall comply with requirements listed in the November 8, 2006 memorandum from the Nampa Engineering Department authored by Daniel Badger (except that the fifty ft (50') “no build” line noted therein taken**

20

from the northern property line of the Property may be reduced from fifty ft (50') to forty ft (40') per Nampa Engineering Department and the Commission) and also the requirement listed in the February 13, 2008 e-mail printout from the Nampa Fire Department authored by Brent Hoskins

2. In order for this approval to be valid and in force, a Building Permit to begin construction of one or both of the two-unit townhouses must be applied for and issued by the City within six months from the date of the Commission's approval of this application and after the associated appeal period (15 days) for this matter has lapsed. For the Conditional Use Permit to then remain in effect shall require that the applicant(s) maintain a valid building Permit for or on the project located on the subject Property.
3. The two-unit townhouse/duplex designs, construction and site layout shall conform the conceptual plans presented to the Commission during their regularly scheduled public hearing of March 11, 2008; Correspondingly, plans submitted for Building Permits for the structures shall match those approved on March 11, 2008 by the Planning Commission.
4. Paving of the shared service drive that accesses the structures approved by this Conditional Use Permit shall be paved as shall the parking spaces in accordance with Nampa City Code 10-22. Paving shall be accomplished during the structure(s) construction and will be a condition of gaining (a) Certificate of Occupancy(ies).
5. This permit is transferable to subsequent owners of the Property as it "runs with the land".
6. Dedication of right-of-way, as may be required by the City Engineering Department, shall be provided at time of Building Permit issuance.

21

- 7. Developer shall cause that site/Property access and site preparation be kept free of litter and debris, that dust control be conducted on the Property as needed to reduce its drift onto neighboring properties; and, that Smith Avenue not be blocked off save as required for installation of utility lines and street improvements as required and approved by the City Engineering Department and regulated by the same agency; and, (in accordance with City of Nampa adopted site development standards) that storm water and water runoff be kept on site during and after construction; and, that any irrigation flow through/across the Property be maintained for down system users.
- 8. Developer shall emplace a six ft (6') high, solid screen privacy fence along the entire northern side of the Property prior to any structure on the Property being allowed a Certificate of Occupancy.

This permit is hereby issued in perpetuity, from the date of issuance. In the event (1) actual construction or alteration does not begin, (2) authorized activity does not commence when no construction is involved or, (3) extensions are not granted pursuant to Nampa Municipal Code Section 10-25-11 within six months of the date of issuance, this permit shall be terminated.

Issued this 27th day of March, 2008.

CITY OF NAMPA:

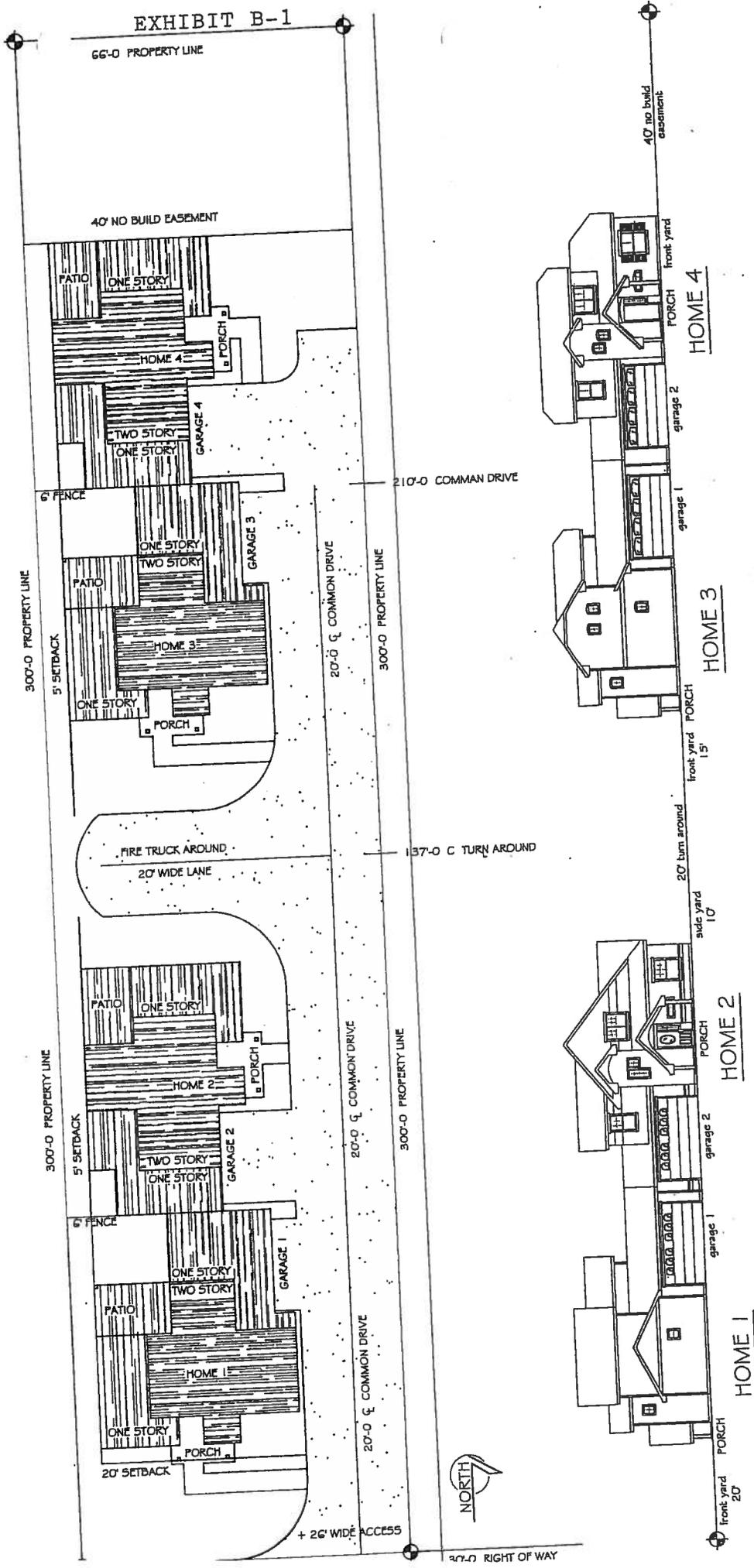

 Norman L Holm
 Planning Director

ATTEST:

City Clerk _____

Project No: 07.1- 0845

EXHIBIT B-1



22



37'-0 RIGHT OF WAY

23

- In response to a question from Acree, Ms Collignon stated she had been operating a daycare for 15 years, and had been licensed for up to 12 children in Boise.

Acree motioned and Corn seconded to close public hearing. Motion carried.

- Discussion followed on the suggested Engineering Department requirement for paving the subject driveway and provision of curb, gutter and sidewalk.
- **Chairman Veloz** suggested a deferral could be obtained for the paving.
- **McGrath** noted the issues the neighborhood had faced in the past but considered the proposed daycare could be a benefit to the neighborhood.
- **Acree** noted the difference between the Home Occupation daycare for up to 6 children and the conditional use permit which, if approved, would allow up to 12 children. Acree considered the change to 12 children would take the daycare to another level.
- The neighborhood, added Acree, was trying to be pro-active in handling all the issues and questioned if approving the daycare for up to 12 children would be a negative impact on the area.
- **Corn** stated he would like to review the approval from the Fire Department to confirm the house was large enough for 12 children.
- **Gunstream** stated both the applicant and the parents were aware of the neighborhood.
- **McGrath** suggested there was a real need in the community for a daycare that catered to shift workers.
- **Randell** considered the applications for a church and a daycare within a few blocks were signs the neighborhood was continuing to improve. Randell suggested a time limit could be placed on the daycare – requiring further review after that time.

Randell motioned and Kropp seconded to approve the conditional use permit for a Home Occupation Daycare for up to 12 Children in an RD zone at 611 18th Ave S subject to: 1) The conditional use permit shall be valid for a period of three years, or until March 27, 2011 – If the operator desires continued use after this date a new conditional use permit will need to be applied for and approved by the Planning Commission prior to this time; 2) Hours of operation limited to 6:00 a.m. to 11:00 p.m. – Monday through Friday; 3) The daycare operator obtains and maintains licensing with Idaho State Department of Health and Welfare; 4) The use as a daycare shall not substantially change the character of the home and be clearly secondary to use of the home as a residence; 5) The outdoor play area and landscaping shall be maintained in a neat and orderly manner; 6) The outdoor play areas shall be continuously fenced in order to retain children from wandering out of the area; 7) All requirements of the Nampa Building and Fire Departments regarding day care use, including the required fire inspections for State licensing, shall be satisfied prior to occupancy; 8) The owner shall enter into a curb, gutter and sidewalk deferral agreement with the City; 9) the size of any advertising signs shall not exceed that allowed for home occupations of 2 sq ft; 10) The conditional use permit shall be granted to only Chris T Collignon and shall not be transferable to any other operator or location. Motion carried with Corn, Gunstream, Kropp, McGrath and Randell in favor and Acree opposed.

Conditional Use Permit for 2 Two Unit Townhomes (four dwelling units total) in an RS-6 Zoning District at 322 Davis Ave. (A .46 acre portion of Lot 23 of Westview Subdivision in the NW ¼ of Section 21 T3N R2W BM), for Jeff Wherry.

Chairman Veloz proceeded to the public hearing.

Evelyn Grime of Place Design & Planning, 100 Main St, No. 201, Boise, representing the applicant:

- Ms Grime presented the application for the two duplexes to the Planning Commission.
- Ms Grime clarified the application was actually for a modification of the conditional use permit that was originally issued March 1, 2007 and then given a 6 month extension to March 1, 2008.
- Ms Grime noted the address for the subject parcel was shown as 322 Davis Ave, however, the property would gain access from Smith Ave.

- 24
- Ms Grime indicated the original site plan for the property and the plan for the one story duplexes.
 - According to Ms Grime, the new townhouse development would create individual front doors and more of a neighborhood appearance than a row of garages.
 - The proposed townhouses, added Ms Grime, would have a portion with one story and a portion two story.
 - The shared drive, explained Ms Grime, would come off Smith Ave extended to access the four homes (townhouses). Ms Grime indicated the "T" fire/emergency vehicle turnaround between the two sets of townhomes.
 - Ms Grime discussed the configuration of the townhome layout, porches and garages -- to allow more privacy along with a neighborhood feel.
 - Ms Grime indicated the 40 ft "no build" easement on the north side of the property. Originally the project had been approved with a 50 ft "no build" easement in anticipation of extending W Ogden Ave further west (although no current right-of-way was in place for the subject property or the three properties to the east). In discussions with the Engineering Dept, added Ms Grime, it was determined the "no build" easement could be reduced from 50 ft to 40 ft which would allow for a better building layout. According to Ms Grime the private drive would not connect through to W Ogden Ave.
 - The homes, added Ms Grime, would have 3 bedrooms, 2 ½ baths, a 4th bedroom/office and attractive, stepped exterior elevations.

Assistant Planning Director Hobbs:

- Hobbs noted the application was in fact for a modification of the existing conditional use permit, originally issued March 1, 2007 and then extended to March 1, 2008.
- Hobbs indicated the e-mail from Jaimie Hiskey of 265 Davis Ave, Nampa, dated March 7, 2008 requesting the requirement of a 6 ft privacy fence between 265 Davis Ave and the subject property, originally placed as a condition on the conditional use permit issued March 1, 2007.
- Hobbs noted the letter of opposition received from Charles L Hynek, dated March 3, 2008, of 269 Davis Ave, the property owner to the west of the subject property.
- The Engineering Dept, advised Hobbs, had indicated the 40 ft "no build" easement would be acceptable.
- The property, added Hobbs, was currently a vacant lot, and had received numerous notices from the Code Enforcement Dept regarding weeds.
- In response to a question from **Kropp**, Hobbs advised the common driveway would be required to be 24 ft wide (including the non-paved areas on the sides). Hobbs explained the requirements of the common driveway in relation to the parking areas and garages for the townhomes.

Evelyn Grime:

- Ms Grime noted the 6 ft privacy fence that would be constructed on the north property line.
- According to Ms Grime, the CC&Rs for the development would require the property owners to park within the garage and not on the private drive. Additionally, added Ms Grime, a sign would be posted stating cars would be towed if parked on the private drive.
- Ms Grime noted with the extension of Smith Ave during construction of the townhouse subdivision, the access to the properties to the west would be improved.

Chairman Veloz proceeded to the public testimony.

There was no one present to offer testimony.

Kropp motioned and **Gunstream** seconded to close public hearing. Motion carried.

- **Chairman Veloz** stated the proposed townhomes appeared to be a quality development.
- **Randell, Corn, Acree and McGrath** concurred it was a quality project with a thoughtful site plan and building elevations.

Acree motioned and **Corn** seconded to approve the modification of the existing conditional use permit -- to allow two 2-unit townhomes located at 322 Davis Ave. (a .46 acre portion of

25

Lot 23 of Westview Subdivision in the NW ¼ of Section 21 T3N R2W BM) subject to: 1) Applicant(s) shall comply with all applicable requirements (including obtaining proper permits and dedicating any needed right-of-way to the City) as may be imposed by City agencies appropriately involved in the review of this request (e.g. Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc) as the C-U-P approval does not and shall not have the effect of abrogating requirements from those agencies, a) Particularly, applicant/Project shall comply with requirements listed in the November 8, 2006 memorandum from the Nampa Engineering Department authored by Daniel Badger (except that the 50 ft “no build” line noted therein taken from the northern property line of the Property may be reduced from 50 ft to 40 ft per Mr Badger and the Commission), and also the requirement listed in the February 13, 2008 e-mail printout from the Nampa Fire Department authored by Brent Hoskins; 2) In order for this approval to be valid and in force a Building Permit to begin construction of one or both of the two-unit townhouses must be applied for and issued by the City within six months from the date of the Commission’s approval of this application and after the associated appeal period (15 days) for this matter has lapsed – for the Conditional Use Permit to then remain in effect shall require that the applicant(s) maintain a valid Building Permit for or on the project located on the subject Property; 3) The two-unit townhouse/duplex designs, construction and site layout shall conform to the conceptual plans presented to the Commission during their regularly scheduled public hearing of March 11, 2008 – Correspondingly, plans submitted for Building Permits for the structures shall match those approved on March 11, 2008 by the commission; 4) Paving of the shared service drive that accesses the structures approved by this C-U-P shall be paved as shall the parking spaces in accordance with Nampa City Code 10-22 – Paving shall be accomplished during the structure(s) construction and will be a condition of gaining (a) Certificate of Occupancy(ies); 5) This permit is transferable to subsequent owners of the Property as it “runs with the land”; 6) Dedication of right-of-way, as may be required by the City Engineering Department, shall be provided at time of Building Permit Issuance; 7) Developer shall cause that site/Property access and site preparation be kept free of litter and debris, that dust control be conducted on the Property as needed to reduce its drift onto neighboring properties; and, that smith Avenue not be blocked off save as required for installation of utility lines and street improvements as required and approved by the City Engineering Department and regulated by the same agency; and, in (accordance with City of Nampa adopted site development standards) that storm water and water runoff be kept on site during and after construction; and, that any irrigation flow through/across the Property be maintained for down system users; and, 8) Developer shall emplace a six ft (6’) high, solid screen privacy fence along the entire northern side of the Property prior to any structure on the Property being allowed a Certificate of Occupancy. Motion carried.

Conditional Use Permit for a Church in an Existing Warehouse in an IL Zoning District at 2240 Samantha Court (Lot 6, Block 1, Cortland Business Park No. 2) for Family Life Church.

Chairman Veloz proceeded to the public hearing.

Terry LeMasters of 2899 E Indian Creek, Meridian, the applicant:

- Mr LeMasters noted the existing warehouse location on the corner of Samantha Ct and Karcher Rd.
- Mr LeMasters indicated the site plan, and a petition dated March 10, 2008 from four nearby businesses stating they were in favor of the church.
- Letters were also submitted by Mr LeMasters from 10 surrounding businesses stating they were authorizing the church to use their business parking spaces on Sundays.
- In response to a question from McGrath, Mr LeMasters stated they now had a total of 155 parking spaces available on Sunday for the church and another 40 spaces on the subject property. Mr LeMasters noted there were another 45 spaces available in Cortland Business Park.

Planning Director Holm:

- Holm reviewed the staff report and recommended conditions of approval.

STAFF REPORT

Public Hearing Item No. 5

Meeting Date: March 11, 2008

Board: Planning & Zoning Commission

File No.: 7.1-0845

Analyst: Robert Hobbs

Applicant(s)/Representative(s):

Jeff ~~Carter~~ *unclear*
evlyn bonnell

Location:

On land located in a RS 6 Zone at 322 Davis Avenue (a .46 acre portion of Lot 23 of Westview Subdivision in the NW ¼ of Section 21, T3N, R2W Boise Meridian) in Nampa (hereinafter the "Property")...

Requested Action(s):

Request Conditional Use Permit [approval] to allow for the construction of two, 2-unit townhomes (four dwelling units total) on the Property...

CONCLUSIONS OF LAW AND REQUIRED FINDINGS

Relevant **Conclusions of Law** for a/this Conditional Use Permit hearing item:

- A. **That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.**
- B. **That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.**
- C. **That the proposed development will enhance the successful operation of the**

SEE 10-25-15-2-A
A C of MOD. EXT. CASSET IN 3 DAYS
NO RENEWALS
76

surrounding area in its basic community functions, or will provide an essential service to the community or region.

FINDINGS & DISCUSSION

This request proposes to allow construction of a pair of two-unit townhomes on the Property. A previous Conditional Use Permit was applied for and granted in 2006 and extended into 2007 for the same kind of development request although the structures were one-story in height and configured differently. A copy of the staff report (including renderings of the duplexes then approved) is hereto attached. The duplexes were not developed given the Davis/Smith street frontage improvement requirement imposed by the City because of cost issues.

A copy of the current site plan, building elevations and new floor plans as furnished by the applicant for the uses are hereto attached as well as any agency/citizen correspondence. Furthermore:

- Surrounding Zoning/Land Uses: Refer to attached vicinity map; neighborhood has a mix of residential use;
- Staff has provided the Commission with all of the information we have regarding the application;
- Should the CUP be approved, the City's plans examiners will re-review the site/landscape plan to ensure compliance with city code respecting provision of proper setbacks, parking and, as may be required, adequate site screening at the time the applicants apply for (a) Building Permit(s);
- Staff has one letter (by the time this report went to print) from the neighboring land owner to the west pertaining to this request;
- Property is apparently not in a floodplain per the City's adopted 1984 floodplain maps. No available information establishes the area as being in an area of "critical concern";

27

RECOMMENDED CONDITION(S) OF APPROVAL

Should the Commission vote to approve the Conditional Use Permit request, Staff recommends the following Condition(s) of Approval...

Generally: As affecting site/Property development and structure construction:

1. Applicant(s) shall comply with all applicable requirements (including obtaining proper permits and dedicating any needed right-of-way to the City) as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc.) as the CUP approval does not and shall not have the effect of abrogating requirements from those agencies.

Particularly, applicant/Project shall comply with requirements listed in the November 08, 2006 memorandum (copy hereto attached) from the Nampa Engineering Department authored by Daniel Badger and also the requirement listed in the February 13, 2008 email printout from the Nampa Fire Department authored by Brent Hoskins (copy hereto attached);

In order for this approval to be valid and in force, a Building Permit to begin construction of one or both of the two-unit townhouses must be applied for and issued by the City within six months from the date of the Commission's approval of this application and after the associated appeal period (15 days) for this matter has lapsed. For the Conditional Use Permit to then remain in effect shall require that the applicant(s) maintain a valid Building Permit for or on the project located on the subject Property;

3. The two-unit townhouse/duplex designs, construction and site layout shall conform to the conceptual plans presented to the Commission during their regularly scheduled public hearing of March 11, 2008; Correspondingly, plans submitted for Building Permits for the structures shall match those approved on March 11, 2008 by the Commission;

4. Paving of the shared service drive that accesses the structures approved by this CUP shall be paved as shall the parking spaces in accordance with Nampa City Code 10-22. Paving shall be accomplished during the structure(s) construction and will be a condition of gaining (a) Certificate of Occupancy(ies);
5. This permit is transferable to subsequent owners of the Property as it "runs with the land";
6. Dedication of right-of-way, as may be required by the City Engineering Department, shall be provided at time of Building Permit issuance;
7. Developer shall cause that site/Property access and site preparation be kept free of litter and debris, that dust control be conducted on the Property as needed to reduce its drift onto neighboring properties; and, that Smith Avenue not be blocked off save as required for installation of utility lines and street improvements as required and approved by the City Engineering Department and regulated by the same agency; and, in (accordance with City of Nampa adopted site development standards) that stormwater and water runoff be kept on site during and after construction; and, that any irrigation flow through/across the Property be maintained for down system users...

ATTACHMENTS

- Vicinity map
- Copy of application
- Copy of reduced site plan
- Copy of any agency/citizen correspondence/other material/2006 staff report on a prior, similar request

40
NO
B.L. 10
EXHIBIT
OK
DAN
RELL



3/11 *EZ*

APPLICATION FOR CONDITIONAL USE PERMIT MODIFICATION
City of Nampa, Idaho

MODIFICATION

28

This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by a nonrefundable fee of \$234.00 (for 1 acre or less), and \$463.00 (for more than 1 acre). SEE BELOW

- 1. Name of applicant: JEFF WHERRY (SEND NOTICE TO REPRESENTATIVE)
- 2. Address of applicant: 4440 BLAINE ROAD NEW PLYMOUTH ID. 83655
- 3. Telephone number of applicant: 278.3673 work; 880-9046 home.
- 4. Address of subject property: 322 DAVIS (SMITH AVE)
- 5. Legal description of property, (attach if necessary): SEE ATTACHED

6. Is the applicant the owner of the subject property? If not, please state the name and address of the owner, together with the relationship of applicant to the owner.

7. State specific proposed use: CONSTRUCT FOUR HOMES - 2 PAIRS OF DUPLEX IN RS-6 ZONE AND FOLLOW WITH TOWNHOUSE SUBDIVISION (FUTURE)

8. Length of time requested for the conditional use permit: N/A years.

9. The conditional use is expected to begin within _____ days or months after granting of permit. Conditional use permits expire if not used within 6 months after granting.

10. This application must be accompanied by a scale drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, easements, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas, preliminary or final building plans and building elevations, together with any other information considered pertinent to the determination of this matter. Is such information attached? YES

Dated this 8 day of FEBRUARY, 20 08.

EVELYN GRIME cel 412.2600
PLACE! Inc.
100 MAIN ST. #201
BOISE, ID. 83702
422.0180 FAX. 422.0181

Evelyn Grime
Signature of applicant
PLACE! INC. REPRESENTATIVE

NOTICE TO APPLICANT

This application will be referred to the Nampa Planning Commission for its consideration. The Planning Commission shall hold a public hearing on the application and it shall be granted or denied. Notice of public hearing must be published in the Idaho Press-Tribune 15 days prior to said hearing. Notice shall also be posted on the premises not less than 1 week prior to the hearing. Hearing notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearing and should be present to answer any questions.

If a conditional use permit is granted by the Planning Commission it shall not become effective until after an elapsed period of 15 days from the date of Planning Commission action. During this time any interested person may appeal the action to the City Council. You will be notified of any pending appeals.

If the conditional use permit is denied by the Planning Commission, you may appeal the decision to the City Council within 15 days from the date such action is taken by the Planning Commission. At the time the conditional use permit becomes effective you will be sent a document which constitutes an official "Conditional Use Permit". This document will enumerate the conditions attached to the issuance of the permit and state the consequences of failure to comply.

29

STAFF REPORT

Public Hearing Item No. 3
Meeting Date: November 14th, 2006
To: Planning & Zoning Commission
File #(s): 7.1-06216
Prepared By: Julianne Shaw
Applicant/Representative:
Jason Kotter and Mark Sever

Location –
322 Davis (Smith) Avenue, a .5 acre portion of Lot 23 of Westview Subdivision, lying in the SE ¼ of Section 21, T3N, R2W BM.

Requested Action(s): Obtain a Conditional Use Permit for duplex construction in a RS (Single Family Residential) Zone

CONCLUSIONS OF LAW

Relevant **Conclusions of Law** for a/the Conditional Use Permit hearing item:

- A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.
- B. That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.
- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

SPECIFIC APPLICABLE SECTIONS OF LAW

10-1-2: **DEFINITIONS:**
Dwelling, Two Family (Duplex): A building designed or used exclusively for the occupancy of two families living independently of each other in two joined dwelling units and having separate housekeeping facilities (i.e., kitchen, bathrooms, entryways) for each family, contained in separate living units that are joined by common wall and roofline - without necessity that each unit be affixed to the ground. The minimum connection "length" between units, to qualify for duplex status, shall be nine linear feet. The structural connection shall provide for a functional usable and enclosed space.

Table 10-3-2 identifies duplexes as uses that may be allowed provided that a Conditional Use Permit is issued approving them on a property in a single family residential zone.

10-8-12: **PARKING AND PARKING LOT LANDSCAPING AND PROPERTY LANDSCAPING:** All site development/uses shall conform to the parking general provisions and exceptions set forth in Chapter 22, except a two family dwelling shall be required to provide covered parking. Uses shall also conform to the parking lot landscaping, property landscaping and sign provisions of Nampa City Code Title 10, Chapters 22, 23 and 33.

10-22-6: **PARKING SPACE[S] REQUIRED:**
Residential Dwelling: two family or multiple 2 per dwelling unit; where fractional, next highest full unit.

Parking spaces and any backup or maneuvering or driveway space/area will need to meet dimensional code specifications, and, be paved.

FINDINGS

- Surrounding zoning is (RS) single family residential.
- Dedication of right of way will be required, construction and paving of the road is also required; the applicant will need to work with the Engineering Department to verify requirements.
- It has been noted that the Engineering Department has concerns regarding sewer availability, and logistical development. Water has similar issues.

- Area is already predominantly developed with single-family residential uses. Although there are two apartment complexes within the immediate area, these seem to have been permitted in the county prior to annexation. Abutting uses include single family residences with standard sized lots.
- The Comprehensive Plan suggests that single family residential uses be allowed in the area in question (Residential, Low Density 1.46 – 4.0 dwelling units per acre).
- Should the CUP be approved, the City's Plans Examiner will review the site plan to assure compliance with city code respecting setbacks, lot coverage, provision of parking etc.
- In the RS zone each parcel must have a minimum of 22 linear feet of street frontage, be a minimum of 50 feet in width, and a minimum of 60 feet in depth each, with a minimum lot size of 6,000 square feet.
- Setbacks for structure and parking are as follows: 20 foot front yard, 10 street side yard, and interior yard setbacks of 10/5 (one side ten feet, one side five), and a rear yard setback of 5 feet. Easements for utilities can and usually exceed these dimensions.
- This property will require approval of a plat to create two parcels since the main parcel was split on Dec. 5, 2002.
- The applicant apparently met recently with Robert Hobbs; in your packet you will find a rough site plan indicating a possible solution to create two parcels.

RECOMMENDED CONDITION(S)

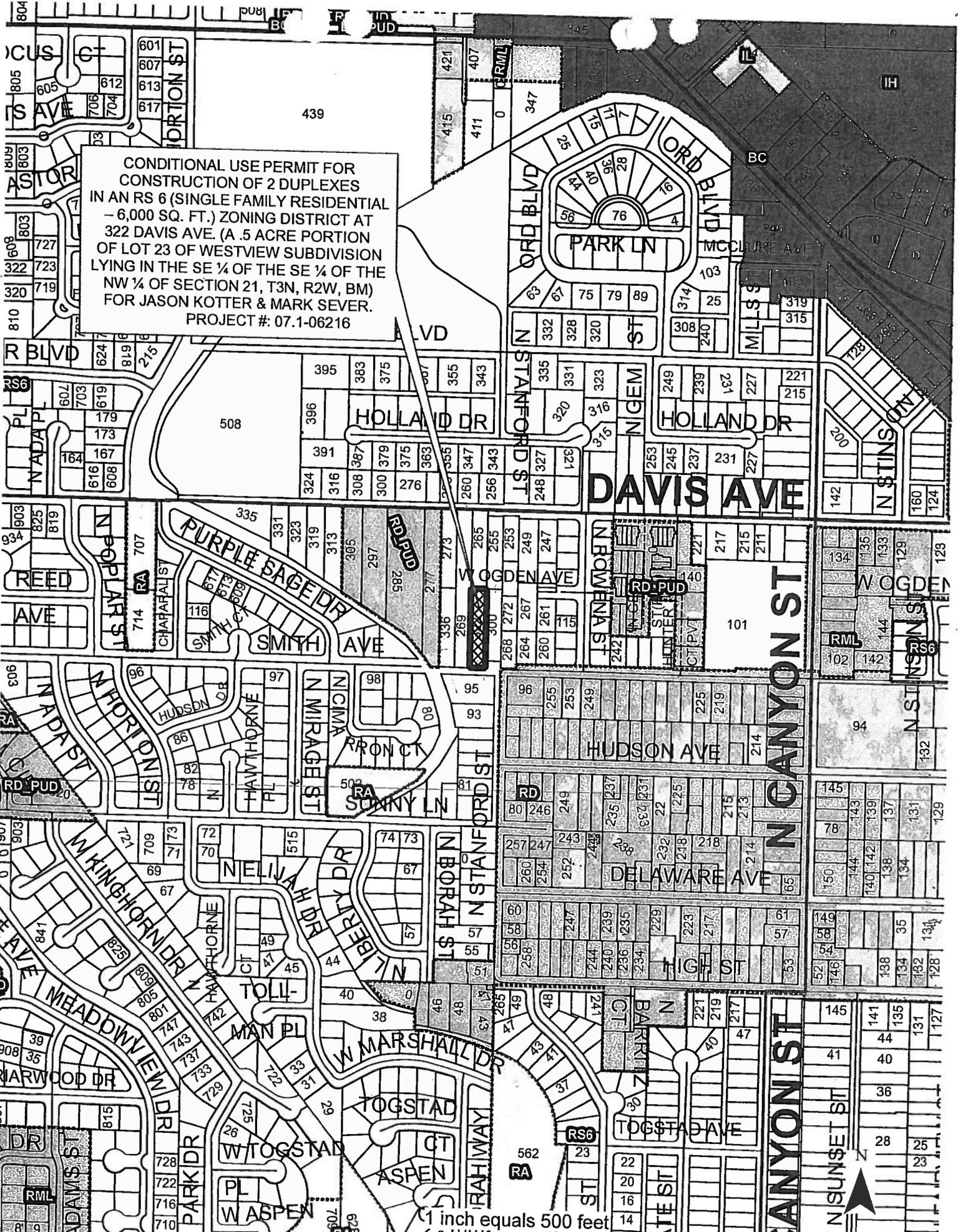
Should the Commission vote to approve the Conditional Use Permit request, then Staff recommends the following Condition(s) of Approval:

- Applicant to coordinate compliance with all applicable requirements of agencies appropriately involved in the review of this request (e.g., Nampa Building Safety Division, Nampa Fire Department, City Clerk, Nampa Planning and Zoning and Engineering Departments, etc.)
- Dedication of Right of Way.
- The entire parking area(s) and drive(s) for the duplex shall be surfaced. Two parking space(s) shall be paved (asphalt or concrete for each dwelling unit. Access to the parking area (i.e., the driveway) shall also be paved.
- In order for this approval to be valid and in force, a Building Permit shall be applied for and issued by the City within six months from the date of the Commission's approval of this application. For the Conditional Use Permit to then remain in effect, it shall require that the applicants maintain a valid Building Permit for the project on the subject property.
- No occupancy/use of the building as a duplex shall occur until a permanent Certificate of Occupancy has been issued.

ATTACHMENTS

- Property is apparently not in a floodplain. No available information establishes the area as being in an area of "critical concern".
- Staff has received a letter in opposition (attached) and one phone call in opposition regarding this development.
- Vicinity map
- Aerial map
- Applicant's site plan
- Correspondence
- Site photos

CONDITIONAL USE PERMIT FOR
 CONSTRUCTION OF 2 DUPLEXES
 IN AN RS 6 (SINGLE FAMILY RESIDENTIAL
 - 6,000 SQ. FT.) ZONING DISTRICT AT
 322 DAVIS AVE. (A .5 ACRE PORTION
 OF LOT 23 OF WESTVIEW SUBDIVISION
 LYING IN THE SE ¼ OF THE SE ¼ OF THE
 NW ¼ OF SECTION 21, T3N, R2W, BM)
 FOR JASON KOTTER & MARK SEVER.
 PROJECT #: 07.1-06216



1 inch equals 500 feet



Memorandum

To: Planning and Zoning
Cc: Daniel Badger, P.E., L.S., Staff Engineer
Cc: Michael Fuss, P. E., Nampa City Public Works Director
From: Jim Brooks – Engineering Division
Date: February 17, 2016
Re: CUP – Duplex in RS-6 Zoning
Applicant: David Kendall
Address: 322 Smith Avenue (TBD)
CUP2139-16 for the February 23, 2016 P & Z Meeting

Fire flow at this location is insufficient.

In 2008 (CUP316-2008) was brought forward to modify CUP07.1-0845 that was originally for 2-townhomes such that 2-duplexes could be built on site.

January 07, 2016 a CPR (**C**onceptual **P**lan **R**eview) meeting was held with the applicant to discuss his proposal to develop the site (see attached CPR notes).

The Engineering Division does not oppose the granting of this conditional use permit with the following conditions:

- Comply with all necessary regulations and conditions as set forth by the Planning and Zoning Commission.
- At time of development of the site, the developer shall extend all public utilities to and through the site in accord with current City Policy and Master Plans. In addition, the developer will also emplace all necessary and required frontage improvements along Smith Avenue. These improvements will include, but not be limited to-
 - Sewer- May require extension of sewer main through site in order to service units. Developer will be required to provide easements as necessary.

- Water - May require extension of water main through site and construction of additional on-site fire hydrants. Developer will be required to provide easements as necessary.
- Pressure Irrigation
- Curb, gutter, and sidewalk
 - Applicant may request a deferral for emplacement of the curb, gutter, and sidewalk
- Landscaping as required
- Storm drainage-both on and off-site
- Gravity Irrigation-Either continued delivery to, or wastewater from adjacent properties
- Pavement widening and striping as required
 - Excavation to subgrade, gravel base, Asphalt paving, etc. per N-820A at a minimum
- Provide a NFD approved turn-around