

**NAMPA PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
TUESDAY, AUGUST 23, 2016, 6:30 P.M.**

Members:	Lance McGrath - Chairman	Bret Miller
	Chad Gunstream – Vice Chairman	Kevin Myers
	Steve Kehoe	Peggy Sellman
	Sheila Keim	Robert Hobbs, Assistant Director
	Harold Kropp	Tom Points, City Engineer
Absent:	Victor Rodriguez	Norm Holm, Director

Chairman McGrath called the meeting to order at 6:46 p.m.

Approval of Minutes. Kropp motioned and Myers seconded to approve the Minutes of the August 9, 2016 Planning and Zoning Commission meeting. Motion carried.

Report on Council Actions. There was no Council member present to report on City Council actions.

Chairman McGrath proceeded to the business items on the agenda.

Business Item No. 1:

Extension of Preliminary Plat Approval for Feather Cove Subdivision No. 1 at 17449 N Franklin Blvd. (A portion of the SW ¼ Section 2 T3N R2W BM – 216 single family dwellings on 68.37 acres for 3.15 lots/acre), all for Northside Management/Heartland Townhomes property Management, LLC (SUB 636-14). Request to extend 02/24/15 approval which expires on 08/24/16 to 08/24/17.

Assistant Planning Director:

- Hobbs reviewed the Staff Report and noted the letter requesting the extension received from the applicant.
- Staff, added Hobbs, had no concerns regarding the request.

**Kropp motioned and Sellman seconded to approve the one (1) year extension to August 24, 2017, for the approval of the Feather Cove Subdivision Preliminary Plat at 17449 N Franklin Blvd, for Northside Management/Heartland Townhomes Property Management, LLC, subject to all previous conditions of approval.
Motion carried.**

Business Item No. 2:

Subdivision Plat Final Approval for Southern Ridge Subdivision No. 1 in an RS-6 (Single Family Residential – 6,000 sq ft minimum lot size) zoning district at the half intersection of E Oklahoma Ave and S Avondale Ave (25 single family residential lots on 7.26 acres, 3.44 dwelling units per acre – situated in the SW ¼ of Section 1 T2N R2W BM), for Canyon Holding, LLC (SPF 013-16).

Assistant Planning Director Hobbs:

- Hobbs indicated the revised drawing for the Southern Ridge Subdivision final plat.
- According to Hobbs, the final plat was in care and keeping with the relevant RS zoning standards and subdivision standards for the City of Nampa.
- Hobbs reviewed the recommended conditions of approval.

Myers motioned and Keim seconded to recommend to City Council the final plat for Southern Ridge Subdivision No. 1, located on 7.26 acres at the half intersection of E Oklahoma Ave and S Avondale Ave for Canyon Holding, LLC, subject to:

1. Applicant/Development shall comply with all City department/division or outside agency requirements pertinent to this matter. This is to include any extant but applicable conditions from prior approvals for this subdivision as iterated in correspondence on file with the city pertaining to Southern Ridge Subdivision.
 - a) Specifically, compliance with requirement(s) listed in the August 12, 2016 memorandum from the Nampa Engineering Division authored by Daniel Badger.
2. The water system for the Project shall be completely installed and able to deliver water prior to any building permits being issued within the Development. The water shall be sufficient in volume and pressure to provide sufficient adequate fire suppression for the Development in accordance with Fire Department policy or International Fire Code requirements as applicable.
3. Correct any spelling, grammar and punctuation and numbering errors that may be evident on the plat face and/or in the proposed Project plat development notes.
4. Developer/Development shall comply with City of Nampa landscape standards as applicable to the subdivision, to include internal street tree planting and periphery landscape corridor landscape requirements.
5. Developer's engineer shall incorporate required plat revisions onto the final mylar version of the same and revise the Project's landscape plan as required. A copy of a/the final landscape plan shall be remitted to Staff in conjunction with the mylar submittal following City Council approval of the final plat.

Motion carried.

Chairman McGrath proceeded to the public hearing items on the agenda at 7:00 p.m.

Public Hearing Item No. 1:

Conditional use Permit for Above Ground Storage of Fuels/Lubes/Oils/Liquids in an IH (Heavy Industrial) zoning district at 0, 9364, 9326, and 0 Cherry Lane. (An approximate 39.152 acre portion of the SE ¼ of Section 4 T3N R2W, Tax 3, Tax 3-A, Tax 15197, and Tax 95440), for Zane Powell (CUP 041-16).

Chairman McGrath proceeded to public hearing.

Zane Powell of 1885 Silver Horseshoe Dr, Rexburg – representing Conrad Bishoff – the applicant.

- Mr Powell noted their previous applications before the Planning commission for the Annexation and IH zoning.
- According to Mr Powell, it had been determined that the Conditional Use Permit application had not previously been included at the time of the Annexation and IH zoning hearings.
- Mr Powell stated that Conrad Bishoff was an oil and gas wholesaler and distributor and own a couple of service stations in the Boise valley, and a warehouse building on Fairview Ave in Boise they have now outgrown.
- The subject properties were annexed and zoned IH, added Mr Powell, with the intent to build a new warehouse facility to house distribution. The railroad permit with Union Pacific, stated Mr Powell, was about 90 percent complete, to bring a rail spur into the subject property, to include some storage tanks, that will service the fuel and diesel and lube and oil needs within the Boise valley from the new Nampa location.
- The railroad contract should be complete, and construction can start on the rail spur, sometime in October, added Mr Powell.

Assistant Planning Director Hobbs:

- Hobbs agreed that usually the Conditional Use Permit would have been reviewed at the same time as the Annexation and IH zoning request, however, the application was now coming before the Commission after the annexation.
- The applicants, continued Hobbs, have already completed the Development Agreement, and indicated the Concept Master Plan showing the railroad spur, and storage and office facilities.
- Hobbs reviewed the Staff Report and recommended conditions of approval.

Chairman McGrath proceeded to public testimony.

Margarite Fuentes of 9504 Cherry Lane, Nampa – opposed:

- Ms Fuentes stated a portion of their property was right next door to the subject property and inquired if they would still be able to burn weeds, use their fire pit, and use another burning pit.
- Ms Fuentes indicated the location of her property on the west side of Ten Ln.

Mr Powell:

- Mr Powell replied there would be no open tanks or open pits and emphasized it would not be a refinery type of situation.
- There would be no fuels or products exposed to the elements, added Mr Powell.
- Mr Powell added there would be no vapor, and nothing would be refined on site. All of the fuels and liquids, advised Mr Powell, would come in rail cars and would be contained within the pumping system. Part of the pumping system, added Mr Powell, eliminates air in all the lines and the tanks.
- Mr Powell reiterated there was no flammable risk with the fuel and liquid storage facility. The property, for the most part, reported Mr Powell, would be fenced, and there would also be fencing requirements along the railroad, for the front along Cherry Ln, as well as secure gates.

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

- Gunstream considered the applicants had done their due diligence.

Gunstream motioned and Sellman seconded to approve the Conditional Use Permit for above ground storage of fuels/oils/liquids in an IH zoning district subject to:

1. **Owner/operator/Applicant(s) shall comply with all applicable requirements [including obtaining proper permits] as may be imposed by City agencies appropriately involved in the review of the 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 the need to comply with lawful requirements administered by those agencies.**

Motion carried.

Public Hearing Item No. 2:

Modification of Approval Condition pertaining to the required eight (8) ft Concrete Wall and Approval of Building Orientation/Size and Landscaping Plan for Conditional Use Permit for an Automotive Repair Shop in a BC (Community Business) zoning district at 3321 12th Ave Rd. (A 1.23 acre portion in the SE ¼ Section 4 T3N R2W BM, Covert Subdivision No. 2, Lot 1, Block 1) granted to James and Michele Connelly on April 26, 2016 (CUP 2179-16).

Chairman McGrath proceeded to public hearing.

James Connelly of 11690 Orchard Ave, Nampa – applicant:

Robert Cooper of 12388 Lone Star Rd, Nampa – applicant:

- Mr Connelly questioned which of the Planning Commission members had voted for the 8 ft concrete wall.
- **Chairman McGrath** reminded the applicants they were before the Commission to request modifications to the originally approved Conditional Use Permit.
- **Mr Connelly** stated they would like to place an 8 ft vinyl fence on the site in place of the previously approved solid wall structure of 8 ft in height because the vinyl would absorb sound better than concrete.
- The 8 ft wall, the Commission voted in, stated Mr Connelly, would cost \$200,000.
- **Miller** noted the 8 ft concrete wall was something the applicants proposed during the April 26th public hearing.
- **Mr Connelly** replied they had also given a lot of alternatives such as wood, vinyl or cyclone fencing.
- **Chairman McGrath** noted a decision had been made at the April 26th public hearing and now the applicants wanted to change that decision.
- No one else in the area, reported **Mr Connelly**, has an 8 ft concrete wall.
- **Keim** recalled the applicants stated they would be placing trees along a concrete or block wall
- On researching the wall, continued **Mr Connelly**, he had found the vinyl fence would absorb sound better than concrete, and would be more reasonable in cost.

- Mr Connelly stated they had redesigned the building four times and reduced the height, and removed 8 bay doors. Mr Connelly added he had discussed the changes with the Planning Department Staff.
- Mr Connelly listed the grievances he had with the City regarding building size, fire hydrant capacity and the time involved in getting their project underway.
- According to Mr Connelly, they were coming up to 6 months since they had started the project and they still were nowhere close to putting a shovel in the ground.
- Mr Connelly took issue with the Planning and Zoning Commission members and Commissioner Kehoe, for suggesting the business item on the July 26th Agenda, regarding their proposed modifications, should come back as a public hearing item on tonight's Agenda in order for the neighboring property owners to be notified of the proposed changes.
- **Chairman McGrath** requested the applicants keep their comments to the requested modifications.
- **Mr Cooper** protested that information given to them had been inaccurate.
- According to Mr Cooper, they had tried to approach the Commission a month ago, by Mr Hobbs' direction, to run something past the Commission they were having difficulty with regarding the mandates imposed upon them, and the Commission declined to hear them.
- **Chairman McGrath** noted that having more testimony at that time would have been out of order.
- **Mr Cooper** stated they wanted to approach the Commission to find out how to handle the problems they were having with the community regarding setting the 8 ft wall inside their property line with the landscaping on the other side of the wall for the neighbors, and working with the neighbors to come up with a workable solution.
- According to Mr Cooper, the neighbors would not work with them or talk with them regarding the landscaping or the wall.
- Mr Cooper again listed the grievances regarding Building/Fire Code building size regulations.
- Mr Cooper reviewed the approved uses in the BC zone in Section 10-3-2 of the Zoning Ordinance and noted they would be approved for a service station and considered that would be the same as an auto repair business, and questioned if it was just a play on words that he was up against, and therefore required to build a \$200,000 wall.
- According to Mr Cooper, he could also put in a tire shop as a permitted use and wouldn't even have to appear in front of the Commission. Mr Cooper questioned why an 8 ft wall was required for an auto repair business and not for a tire shop.
- Mr Cooper also took issue with the fact that during the public hearing for the Conditional Use Permit for the auto repair business on April 26, 2016, the Commission required the applicants to work with the neighbors and he had tried to go to each and every one of the neighbors for input on what they would like to see, and the neighbors would not call him back, work with him, or listen to what he had to say. According to Mr Cooper, he had done his part and tried to work with the neighbors.
- Mr Cooper continued, stating he wanted to get his business underway in Nampa but was concerned regarding the delays from the City and the neighbors.
- Mr Cooper reiterated he had spent a month talking to Exxon Mobile and could put a gas station on the property, along with 30,000 gallons of fuel and would not have to come before the Commission because it was an approved use.
- Mr Cooper stated he wanted the neighbors to know that just by collaborating their efforts they could not run him out of town as they had done to other businesses.
- Mr Cooper repeated his grievances with the City of Nampa regarding the lack of business growth.
- **Chairman McGrath** noted all the City was asking, was for the applicant to attempt to work with the neighbors, as the Commission asks of all developers.
- **Mr Cooper** reiterated the types of businesses that would be permitted in the BC zoning district and questioned if the Commission understood what the property was pre-approved for.
- Mr Cooper suggested the Commission should have approved his business four months ago and his business would already be up and running, and attributed the fact his business was not already running to all the hang ups with the Planning Commission and all the other people that work with the City of Nampa.
- Mr Cooper considered the Commission did not understand what he was doing for the City.
- **Gunstream** quoted the Minutes of the April 26, 2016 Planning and Zoning Commission meeting where "Mr Connelly reiterated the cars would not be visible as they would be behind either a tilt-up or block wall up to 8 ft tall". Gunstream added that statement was directly from Mr Connelly, and the discussion regarding the wall had come directly from the applicants and was not something the Commission decided to mandate, but they had

taken the applicants words and statements at that time and used their offer as the basis for conditions – like the wall.

- Gunstream also read from the Minutes where Mr Cooper had stated the ceiling height at 14 ft and the 4/12 pitch would place the peak of the roof at 20 ft or a little higher.
- The intent, emphasized Gunstream, was to try and mesh the applicants and the neighbors around the subject property together, and come to a good conclusion that worked for both.
- Gunstream indicated the fact there was a Development Agreement attached to the subject property at the time of annexation and BC zoning.
- **Mr Cooper** again took issue with the Planning Commission members, and stated he expected a little guidance and not a reprimand.
- **Miller** stated he liked the current plan much more than the previous plan.
- At the July 26th meeting, added Miller, it did not seem appropriate for the Commission to review the proposed changes to the original April 26, 2016 conditions of approval for the Conditional Use Permit, without the opportunity for the community to also give testimony.
- **Mr Cooper** reiterated his discontent they were not allowed to get answers at the July 26th meeting, especially the suggestion that they were trying to do something underhanded.
- **Miller** advised the applicants had been on the Agenda for July 26th as a Business Item, not a Public Hearing item.
- Miller stated the intent of the Commission was for the applicants to make their best efforts in coordinating the wall and the landscaping and it was totally fair to have the neighboring property owners have a chance to hear the proposed changes before the Commission voted on those changes.
- **Mr Cooper** detailed the fact he had received a call from the owner of the Kit Kat Club that was torn down in Meridian, that he would like to buy his land, and he was really thinking about selling the subject property to him.
- **Myers** inquired if the applicants were proposing a 6 ft or an 8 ft vinyl fence, as the site plan submitted indicated a 6 ft vinyl fence.
- **Mr Cooper** stated he really did not care, but he would be happy to go with an 8 ft vinyl fence, and was ok with either a 6 ft or an 8 ft fence. Mr Cooper added he did not care what the neighbors that would not talk to him wanted, as they were not giving him any input, and he would rather listen to the neighbors that would talk to him.

Assistant Planning Director Hobbs:

- Hobbs advised the item formally before the Commission was the consideration of a change to the conditions of approval that were included in the language of the Conditional Use Permit approved on April 26, 2016.
- The applicants' main focus revolves around the placement of a fence, with further considerations to be given regarding the landscape plan, and also the building itself – regarding its size, position, appearance, etc.
- Hobbs referred to the Memorandum dated August 16, 2016, where it states that “Since the Commission hearing that vetted the Project proposal in April, the Applicants have revised their plans somewhat. At present, they wish to build a structure under 30 ft in height, of smaller area dimension that originally proposed, place the proposed car repair building in a more Property centered position, eliminate the garage bay doors up and down along both long sides of the building and instead use garage bay doors only at the ends of the building. As Staff, we do not perceive a need for formal action for those kinds of changes as they are in care and keeping with testimony rendered at the hearing, would be less impacting on adjoining properties, and do not violate the conditions of the Commission.”
- The fencing requirement, stated Hobbs, was geared towards the development of the property, and stems from a Development Agreement signed by Frank Comte in 2014, at the time the property was annexed into the City and zoned BC. Condition No. 9, of the Development Agreement, Exhibit B, states that whomever on the property, for whatever use is put there, is to provide a 6 ft tall site obscuring fence, and landscape buffer, to mitigate the impacts of the proposed businesses on the adjoining residences.
- According to Hobbs, that condition established a layer of regulation of minimum standard by the City Council. The property was then made available to anyone who wanted to develop it and the applicants have chosen a particular type of business that under our Land Use Classifications falls under the requirement of a Conditional Use Permit. The State of Idaho land Use Planning Act, advised Hobbs, gives statutory authority to Boards, such as the Nampa Planning and Zoning Commission, to impose conditions where there is a reasonable connection between the condition itself and the proposed use.

- Hobbs noted that during the Conceptual Plan Review, prior to the Planning and Zoning Commission hearing, the applicants had stated they were proposing a “tilt-up or CMU block style wall, possibly 8 ft tall”, similar to the wall behind Home Depot adjacent the Eaglecrest Townhouse Subdivision or the one behind D & B Supply.
- The applicants, noted Hobbs, had stated previously that their business would not be as loud as what would be thought of for an auto repair business because they are using electric tools, rather than air tools.
- The applicants had also noted the cost involved for a concrete or CMU block wall.
- However, because the Commission accepted what was proposed by the applicants, and created a standard for the applicants to comply with, then if the applicants want to change a condition of approval, or delete it, the applicants would come back to the Commission for a public hearing, as part of an open discussion forum that the laws require.
- According to Hobbs, the applicants originally wanted to discuss if the Commission felt comfortable amending that Conditional Use Permit with a Business Item review.
- They did go before the Commission with that item on July 26th and the Commission made the decision to hold a public hearing process, in accordance with Chapter 25 of the Zoning Ordinance.
- Regarding the landscaping, Hobbs noted the applicants had stated they were having a difficult time trying to reach a consensus with their neighbors.
- Hobbs reasoned that if landscaping was required between a fence and the neighboring property line it would become a “no-man’s” land and be difficult to maintain. Landscaping on the applicant’s side of the fence and property line, added Hobbs, would not provide any true screening. Hobbs suggested that three or four planters could be placed on the applicants’ side of the fence, with trees, that would eventually provide visual enhancement.
- Hobbs noted the applicants had indicated that one neighbor did not want any wall or fence at all, and another would like a 20 ft wall.
- Hobbs indicated the revised site plan for the newly designed building, and noted the fire flow, etc, was outside of the Planning and Zoning Commission review and up to the Fire Department and Building Department.
- Hobbs advised the anticipated building would also come under the Building and Site Design Review requirement, the same as any building proposed in the BC zoning district.

Chairman McGrath proceeded to public testimony.

Chuck Grigsby of 204 Valley View Road, Nampa – opposed:

- Mr Grigsby stated he had not thought about a fence, and the applicant was the one who had stated he would put up a block wall.
- Now, added Mr Grigsby, was another meeting about the fencing, which seemed to be re-doing what had already been determined.
- Part of the problem was the subject property was not properly zoned as it would be dropping a business in the middle of a residential subdivision on to a lot that previously had a residence, and now could be a strip joint or a tire shop, as stated by the applicant earlier in the evening.
- Mr Grigsby stated it had not been his understanding the landscaping would be on the outside of the applicant’s fence, and did not think it made any sense to have the landscaping on the other side of the fence.
- According to Mr Grigsby, his concern was the noise from the business. Even though they would be using air tools, there would still be noise from an automotive repair shop, as well as the people going in and out.
- Mr Grigsby suggested the fencing should be an 8 ft solid fence, which would provide privacy to both the neighbors and the applicants, and not a chain link fence.
- Mr Grigsby confirmed he had talked to the applicant in the back yard and on the phone and had stated they should put up the wall/fence they said they were going to put up, and suggested the applicant should have inquired of the cost before they said they were going to put up a block wall.
- **Keim** inquired if Mr Grigsby would have a problem with a site obscuring 8 ft vinyl fence, and **Mr Grigsby** replied the fence needs to be an 8 ft solid fence, and not a chain link.

Tom Ashley of 111 Palmer Drive, Nampa – opposed:

- Mr Ashley stated he had gone around the neighborhood yesterday to talk to the other neighbors.
- Mr Ashley stated he was co-owner of three parcels that border the subject property and to his knowledge the applicants had never tried to contact them, and he had never met them.
- Mr Ashley read from a prepared statement pertaining to the 8 ft concrete fence to be built around the parcel, noting the concrete fence would be both fireproof and maintenance free, and more durable and long lasting.

- It would be an extreme expense, added Mr Ashley, to put a concrete block fence around the subject property, and as long as an 8 ft vinyl fence was installed around the property he would not have a problem with it.
- Landscaping, stated Mr Ashley, was never an issue and he did not know where the landscaping requirement came from. As long as the 8 ft fence was on the property line around the parcel, continued Mr Ashley, then landscaping was not really necessary.
- Mr Ashley, stated he and Robert Covert, owner of 3 out of 7 of the parcels bordering the subject property and he did not think the automobile repair was a proper use for the property, because originally it was proposed to have medical offices on that land.
- Mr Ashley reiterated that as long as it was an 8 ft fence for soundproofing, that would be maintained by the applicants, then he did not have a problem with the change.
- Mr Ashley inquired about the change to the building orientation.
- **Chairman McGrath**, stated the applicants were proposing a more central location, in the middle of the property. Additionally, there would be two bay doors, one on each end of the building, rather than having the ten bay doors along the sides of the building.

Jamie Tiller of 210 Valley View Rd, Nampa – opposed:

- Ms Tiller stated she had a huge back yard that adjoined the subject property.
- Ms Tiller explained she was opposed to the automobile repair at the previous meeting because the surrounding land was residential, and she was still not happy about it.
- Ms Tiller advised she had concerns about the use on the subject property and at the last meeting the applicants stated a concrete or block wall would be put in, and if they were open 24 hours a day they would be towing in wrecked cars, and she did not want the wrecking truck lights shining in her window.
- Ms Tiller stated she had not spoken to the applicants because she was just leaving when someone came to her house.
- According to Ms Tiller, she still considered it should be a solid concrete wall around the subject property.

Lyndsay Tiller of 324 Mountain View Dr, Nampa – opposed:

- Ms Tiller stated she grew up in her mother's house at 210 Valley View Rd.
- Ms Tiller reported her mother had lived there for about 30 years and they have always spent a lot of time in the back yard, and suggested the 8 ft concrete wall for security, soundproofing, fireproofing, and any sort of hazard would help protect her back yard.

Antonio DeLeon of 104 Sunrise Rim Rd, Nampa – opposed:

- According to Mr DeLeon, he had lived there since the early 1990s.
- Mr DeLeon stated he had gone to the very first hearing on the subject property when it was annexed and zoned for a medical professional plaza.
- At that time, added Mr DeLeon, one of the main points they were in favor of was the concrete fence.
- Now, advised Mr DeLeon, he believed it should remain a concrete fence because of the neighboring houses surrounding the subject property.
- According to Mr DeLeon there would be noise from the automobile repair because of the 10 bays and the noise from the engines.
- Mr DeLeon reiterated he did want to see a concrete fence around the subject property, but the landscaping did not matter.

Mr Cooper:

- Mr Cooper considered there had been some misconceptions.
- Mr Cooper stated no, there was not a gas station on the property, but he could have one there in a month and he had already been on the phone with Exxon Mobile.
- According to Mr Cooper, he was not a bully, but was just trying to keep from being bullied.
- The other misconception, added Mr Cooper, was that concrete was a better sound barrier than vinyl, and added he had been doing research and gone to facilities that have both. Vinyl was actually a better sound barrier because it absorbs the impact of the noise and does not amplify it and that was why concrete rooms and concrete buildings require acoustics.
- Mr Cooper stated he had hired an architect, who also stated the same regarding concrete as a sound barrier.

- According to Mr Cooper, he had gone to Ms Tiller's door and she did refuse to talk to him and he had left contact information.
- The subject property, continued Mr Cooper, was already zoned BC, and added that Exxon Mobile wanted him to put in a 24 hour convenience store. However, added Mr Cooper, he really wanted an automobile repair shop.
- Mr Cooper considered there would not be an issue with hauling wrecked cars in the middle of the night, as all work would be conducted on the inside of the building and the doors would not be up any more than necessary.
- Mr Cooper stated he had removed 10 bay doors from the building, had thickened the insulation in the walls, and redesigned the proposed building for the benefit of the people in the community, and had addressed their needs.
- As far as the vinyl versus the concrete, stated Mr Cooper, he knew where he was misled because he was never given a Development Agreement during his Conceptual Plan Review, but it was suggested by the Planning Department that a concrete wall, or something to that effect, be constructed.
- Mr Cooper stated he had not had a chance to read the Development Agreement because he did not have it yet.
- According to Mr Cooper, if he had known he could get away with a 6 ft vinyl fence, then he would have gone with the 6 ft vinyl fence, however, 8 ft would be fine.
- Mr Cooper stated that Mr Grigsby was the gentleman that wanted a 20 ft wall with a gate in it.
- **Gunstream** inquired when Mr Cooper purchased the property, and **Mr Cooper** replied he purchased it in April.
- **Gunstream** noted the Development Agreement was tied to the property, so when Mr Cooper purchased the property he would have received a copy of that Development Agreement from the Title company.
- According to **Mr Cooper** he tried to speak about the fence the night of the Conditional Use Permit hearing, however, he was not given a chance to speak about it because at the end of the meeting it was all of a sudden just decided there would be a concrete fence put up around the property.
- Mr Cooper reiterated that he would build another auto repair shop in Nampa, and if necessary, would call it a service station but did not want to do the play on words thing, but wanted to be free to build.
- Mr Cooper indicated the proposed building elevations and noted the 3 different types of material that would be on the front of the building.
- According to Mr Cooper, he could put 30,000 gallons of above ground fuel storage on the property and stated he had checked into it and was pre-approved.
- He could also put a tire shop on the property, added Mr Cooper.
- In addition, stated Mr Cooper, he could also put new car sales on the property, with a repair center.
- Mr Cooper also suggested he could put a nightclub on the property as a permitted use [would be subject to Section 10-3-2 of Zoning Ordinance as permitted only when associated with and accessory to a restaurant].
- RV sales with repair shops would also be permitted on the property, added Mr Cooper.
- Mr Cooper added that an 8 or 9 story hotel (would be subject to Section 10-16-4 of Nampa Zoning Ordinance pertaining to building height regulations when adjacent to a residential district) could be placed on the property.

Mr Connelly:

- **Mr Connelly** suggested if the neighbors did not want a business on the subject property they should buy the property from him.

Assistant Planning Director Hobbs:

- Hobbs referred to the Conceptual Plan Review meeting at the Civic Center prior to the Conditional Use Permit public hearing in April, and advised a copy of the Development Agreement opened to the page containing the conditions had been handed to the applicant's wife at that time.
- Hobbs added the letter to the applicants with the notification of the decision of the Planning and Zoning Commission and the relevant conditions also had the notice that the applicants could appeal those conditions if they did not like them. No Appeal had been received stated Hobbs.
- **Mr Cooper** stated at the time of the Conceptual Plan Review he did not have time to sit down and read the Development Agreement from cover to cover to determine what was in it.

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

- **Gunstream** stated the applicants had talked about the passion they have for the auto repair business, and to help single mothers, and to help people that were in need.

- Gunstream added, that one of the reasons he had liked the plan for the subject property was because of the proposed concrete wall, which would have allowed the business to harmonize with the neighborhood, and therefore, he stood firm on the previous condition for a concrete wall.
- **Miller** considered the applicants had made a genuine effort to work with the neighbors and it sounded like the majority of the neighbors were ok with the change to a vinyl fence. With the changes to the proposed building, added Miller, being a two bay door building instead of a ten bay door building, it was a better looking building with a lot less noise, and because of that advised he was ok with the changes.
- **Keim** stated she had read through the Minutes of the April Planning and Zoning Commission meeting regarding the Conditional Use Permit application and see two different thoughts regarding the commitment to a sound barrier fence and stated the applicants were the ones stating they would be constructing either a tilt-up or block wall up to 8 ft tall.
- Keim noted there now appeared to be a split between the adjacent property owners regarding the change to a vinyl fence.
- **Kehoe** recalled that at the July 26th Planning and Zoning Commission meeting when he recommended the applicant come back for a public hearing, he had also stated he was in favor of all the changes being made, however, he did not think it was fair to make any changes without the neighboring property owners being able to comment.
- Kehoe added that after taking the information received from the neighbors, he was still in favor regarding the proposed change to an 8 ft vinyl fence. Kehoe noted the proposed change that would reduce the number of bay doors down to two, to be located on the north and south side of the building, would be a great idea.
- Kehoe considered the landscaping should be removed from the requirements of the Conditional Use Permit.
- **Myers** stated his only additional comment would be for the 8 ft vinyl fence to go all the way to the ground, with no space whatsoever to allow noise to get through. Myers concurred with the revised site design showing a 50 ft separation between the property line and the building, the additional insulation in the building, the lower height of the building, and added he was also in favor of the 8 ft vinyl fence.
- **Sellman** agreed, that an 8 ft vinyl fence would be acceptable, but not 6 ft.
- **Chairman McGrath** noted the acoustics of a concrete wall/fence would make more of an echo chamber from the noise of the auto repair business, and considered that vinyl was definitely better at dampening sound.
- Chairman McGrath added that communication with the neighbors was key for the applicants.

Myers motioned and Kehoe seconded to grant a modification of the approval conditions pertaining to the required eight (8) ft concrete wall and approval of building orientation/size and landscaping plan to permit an eight (8) ft vinyl fence to be constructed all the way down to the ground, and the landscaping to be located on the subject property, on the inside of the fence; for Conditional Use Permit approved April 26, 2016, for an automotive repair shop in a BC zoning district at 3321 12th Ave Rd, for James and Michele Connelly.

Motion carried with Miller, Keim, Kehoe, Myers and Sellman in favor and Kropp and Gunstream opposed.

Meeting adjourned at 8:22 p.m.



Norman L Holm, Planning Director

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