



MINUTES
PUBLIC MEETING
Twin Falls City Planning & Zoning Commission
December 10, 2013 6:00 PM
City Council Chambers
305 3rd Avenue East Twin Falls, ID 83301

PLANNING & ZONING COMMISSION MEMBERS

CITY LIMITS:

Nikki Boyd Jason Derricott Tom Frank Kevin Grey Gerardo "Tato" Munoz Chuck Sharp Jolinda Tatum
Chairman

AREA OF IMPACT:

Lee DeVore Steve Woods

CITY COUNCIL LIAISONS:

Suzanne Hawkins Rebecca Mills Sojka

Vice-Chairman

ATTENDANCE

CITY LIMIT MEMBERS

<u>Present</u>	<u>Absent</u>
Boyd	Derricott
Frank	Sharp
Grey	
Munoz	
Tatum	

AREA OF IMPACT MEMBERS

<u>Present</u>	<u>Absent</u>
DeVore	
Woods	

CITY COUNCIL LIAISON(S): Hawkins, Mills Sojka

CITY STAFF: Spendlove, Strickland, Vitek, Wonderlich

I. CALL MEETING TO ORDER:

Chairman Frank called the meeting to order at 6:00 P.M. He then reviewed the public meeting procedures with the audience, confirmed there was a quorum present and introduced City Staff present.

II. CONSENT CALENDAR:

1. Approval of Minutes from the following meeting(s): **OCTOBER 22, 2013**
2. Approval of Findings of Fact and Conclusions of Law: **NONE**

Motion:

Commissioner Munoz made a motion to approve the consent calendar as presented. Commissioner DeVore seconded the motion.

UNANIMOUSLY APPROVED

III. ITEMS OF CONSIDERATION:

1. Request for the Commission's consideration of the Preliminary Plat of Cedarpark #10 Subdivision, A PUD, consisting of 3.96 (+/-) acres with seven (7) commercial lots on property located at the southwest corner of Carriage Lane North and Chuck Wagon Place. c/o EHM Engineers, Inc. on behalf of Gary N Nelson & Co.

Applicant Presentation:

Tim Vawser, EHM Engineers, Inc. representing the applicant, Gary Nelson. The Commission first saw a portion of this item as a special use permit in September for Forrest LeBaron to build storage units on the

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north parcel. They are currently in a purchase/sale agreement for that portion of the lot contingent upon completion of the platting process. There will be approximately 2.3 Acres of storage units on the one north lot, which will be built in phases, and six (6) other commercial lots on the south available for development. These six (6) lots may turn into storage units in the future if Forrest goes back through the process, but at this time the plat is showing six (6) individual commercial lots for development in order to keep options open. Applicant stated understanding of staff recommendations and conditions for approval, primarily the landscape buffer as well as the sanitation limitations for the development and asked that the Commission approve the request for preliminary plat approval.

Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. On July 1, 1996, Ordinance #2531 was approved to rezone 132.5 acres from RR to R-2, R-4, R-4 PRO and C-1 PUD. The Cedar Park PUD Agreement was approved on June 2, 1997.

This Preliminary Plat for the Cedarpark #10 Subdivision, A PUD, includes 3.96 (+/-) acres and is zoned C-1 PUD (Commercial Highway District) PUD (Planned Unit Development). The request is to plat seven (7) lots for commercial development. The site is located at the southwest corner of Carriage Lane North and Chuck Wagon Place. The property is currently undeveloped and being farmed. The parcels are being subdivided into seven (7) commercial lots. The lot area in the C-1 zone shall be of sufficient size to provide for the building, the required setbacks, off street parking and landscaping. The proposed development is for commercial subdivision and will be required to meet the minimum code standards and comply with the Cedar Park PUD Agreement.

The proposed subdivision is planned to be developed in two (2) phases. Lot one (1) will be the northern 2.11 acres of the parcel will be the phase 1. If the storage units are successful, they would expand to the south and potentially the south six (6) lots would go away and become Phase 2 of the storage units. Phase 1 is proposed to be developed as mini-storage units. A SUP was granted on Sept. 10, 2013 to allow construction of storage units on this lot, subject to conditions. The PUD states there is to be a landscape buffer between residential and commercial lots. The developer of the mini-storage facility has agreed to contact to owner of the property to the north and establish a maintenance agreement regarding the existing landscape buffer in exchange of having to construct additional landscaping on the northern boundary of his property. The Commission may want to place a condition on the preliminary plat that the maintenance agreement shall be in place and the City has a copy for our files before recordation of the final plat. The landscape buffer is a requirement on the recorded Cedar Park PUD Agreement. Currently there is an approximate five (5) foot buffer along a portion of the southern boundary of the Carriage Lane Apartments. This was installed at the time of construction of the apartment complex. This buffer was not installed along the entire length of the property boundary between the residential and commercial uses. The portion to the West needs to be completed in order to be compliant with the PUD, and that is the reason for the staff recommended condition. The original route for sewer service to this subdivision has been found deficient via the sewer modeling process. In order to adequately serve this subdivision, multiple alternative routes have been proposed. At this time an alternative route has not been agreed upon between the developer and the City Engineering Department. It would be acceptable to require a condition on the plat approval for an adequate sewer service plan to be agreed upon between the

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developer and the City Engineering Department, prior to recordation of the plat. A full review of required improvements will be made by the Building, Planning, Fire and Engineering Departments for full compliance with minimum development standards prior to issuance of any building permits. This is the first step of the plat approval process. A preliminary plat is presented to the Planning and Zoning Commission. The Commission may approve the preliminary plat, deny it, or approve it with conditions. A final plat, that is in conformance with the approved preliminary plat and including any conditions the Commission may have required, is then presented to the City Council. Only after a final plat has been approved by the City Council and construction plans approved, may the plat be recorded and lots sold for development. The plat is consistent with other subdivision development in the area, city code criteria and is in conformance with the Comprehensive Plan which designates this area as appropriate for commercial/retail.

Planner I Spendlove stated upon conclusion staff recommends the Commission approve the preliminary plat of the Cedarpark #10 Subdivision, A PUD, as presented, subject to the following conditions:

1. Subject to final technical review and amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to compliance with the Cedar Park PUD Agreement.
3. Subject to Landscaping Buffer Maintenance Agreement between Cedarpark #10, Lot 1, Block 1 and Cedarpark #1, Lot 37, Block 4, being executed and a copy given to the City prior to recordation of the final plat.
4. Subject to an adequate sewer service plan agreement between the developer and the City Engineering Department prior to recordation of the final plat.

Questions/Comments:

- Commissioner Woods asked about the apartments and light intrusion into the apartments from the adjacent development.
- Planner I Spendlove stated that this concern would be addressed in the building permit review process, code requires that lights be downward facing. Typically this issue would have been addressed with the Special Use Permit process, the platting of property doesn't necessarily delve into the construction and or design of the project.
- Commissioner Woods then asked if the issue has already been dealt with and is a non-issue at this point.
- Planner I Spendlove affirmed that the light intrusion issue is not an issue at this point.
- Commissioner Munoz asked about storm water retention areas and Engineering review.
- Planner I Spendlove stated that this will also be addressed in the building permit review process and deferred specific questions to the Engineer representing the applicant.
- Mr. Vawser explained that the storm water retention for the storage units will be handled with a dry well system that has been designed and submitted for review.

Public Hearing: OPENED & CLOSED WITHOUT COMMENTS

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Discussion Followed:

- Commissioner Munoz stated that the commissioners have already reviewed the Special Use Permit for the storage units, and recollected that there weren't any issues or public comment about the design. Also that the commercial lots could be a buffer for whatever happens to come along later to the south.
- Further discussion about the staff recommendations and conditions placed on the Plat. It was determined all conditions presented in the staff report were placed on the list of staff recommended conditions.

Motion:

Commissioner Munoz made a motion to approve the request, as presented, with staff recommendations. Commissioner Woods seconded the motion. All members present voted in favor of the motion.

Cedarpark #10 Preliminary Plat, a PUD, was Approved, as presented, with the following conditions

1. Subject to final technical review and amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to compliance with the Cedar Park PUD Agreement.
3. Subject to Landscaping Buffer Maintenance Agreement between Cedarpark #10, Lot 1, Block 1 and Cedarpark #1, Lot 37, Block 4, being executed and a copy given to the City prior to recordation of the final plat.
4. Subject to an adequate sewer service plan agreement between the developer and the City Engineering Department prior to recordation of the final plat.

IV. PUBLIC HEARINGS:

1. Request for the Commission's recommendation for a Zoning Title Amendment to amend Twin Falls City Code Title 10; Chapter 7; Section 6(A), to reduce the front yard building setback to 52' from centerline on Bridgeview Boulevard from Blue Lakes Boulevard North to Pole Line Road East. c/o EHM Engineers, Inc. on behalf of Bridgeview Estates (app. 2576)

Applicant Presentation:

Hailey Barnes, EHM Engineers, Inc. representing the applicant stated that their client would like to do a remodel of their entrance. The current entrance is not customer friendly, particularly for elderly residents. They would like to provide a covered area so that visitors and residents can load and unload easily out of the weather. They are asking for the code amendment due to the limitations of the current sight and building.

Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. City Code §10-7-6 references "Front Yard Setbacks" and was established in the City Code in 1990 with Ord. 2323. This section lists arterial, collector, and other major roadway sections and establishes a building setback from the centerline of the named road section. As roadways have been added to the City the section has been amended to reflect new construction and changes to roadway width standards.

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Amendments were made in 1999 with Ord. 2620, in 2002 with Ord. 2662, in 2003 with Ord. 2773, and in 2006 with Ord. 2850. The adoption of the Master Transportation Plan also affects these standards.

This request is for a Zoning Title Amendment to City Code Title 10; Chapter 7; Section 6 to change the centerline building setback for Bridgeview Blvd from Blue Lakes Blvd North to Pole Line Road East. Bridgeview Boulevard currently is classified as a major collector street and is located between BLBN and Locust St N. The current building setback requires 62' from centerline of Bridgeview Boulevard. The request to reduce this centerline setback to 52' from BLBN to Pole Line Rd E, leaving the building setback between Pole Line Rd E to Locust St N at 62' from centerline.

This amendment would decrease the amount of available space for future right-of-way on this section of Bridgeview Boulevard. However, Bridgeview Blvd is not the designated heavy traffic route for the area, and if future traffic needs warranted an expansion of the roadway in this particular section, a five (5) lane arterial roadway could still be designed within the land available through the proposed reduced centerline setback of fifty two feet (52'). Staff does not feel the visibility corridor or vehicular traffic safety would be greatly compromised by decreasing the street centerline setback in this section of Bridgeview Boulevard as it is mostly developed. If additions or remodels to existing buildings were to extend to the fifty-two foot (52') setback, the visibility corridor would still be reasonably large enough for vehicular traffic safety concerns as well.

Planner I Spendlove stated a recommendation by the Commission of this request, as presented, the request could be noticed for public hearing before the City Council. Upon conclusion, Staff feels that the amendment to City Code 10-7-6, as presented, would satisfy the needs of the city in the future while maintaining the safe visibility corridors of vehicles that use the roadway.

Questions/Comments:

- Commissioner Munoz asked about landscaping requirements and if they are decreasing the setback how would that impact landscaping allowances and requirements.
- Planner I Spendlove stated that this is not a gateway arterial; therefore a minimum landscaping buffer is not required by code for this area. However, these properties are regulated under PUD Agreements. They would still have to meet the requirements of City Code and the PUD.
- Commissioner Frank asked about the visibility and future development in the area and if there are any unforeseen consequences.
- Planner I Spendlove stated that the Engineering Department has confirmed that in the future with this change they will still be able to get the amount of lanes needed and the visibility needed for the roadway to be safe.
- General discussion on the topography of the west side of the roadway towards the mall.

Public Hearing: OPENED & CLOSED WITHOUT COMMENTS

Discussion Followed: WITHOUT CONCERNS

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Motion:

Commissioner Tatum made a motion to approve the request, as presented, with staff recommendations. Commissioner DeVore seconded the motion. All members present voted in favor of the motion.

[Recommended for approval to the City Council, as presented](#)

[City Council Public Hearing Scheduled for January 13, 2014](#)

2. Request for the Commission's recommendation for a Zoning Title Amendment to amend Twin Falls City Code Title 10; Chapter 9; Section 9(k) to allow temporary real estate open house signs within public right of way under specific conditions. c/o Nan Gandy on behalf of Greater Twin Falls Association of Realtors (app. 2602)

Applicant Presentation:

Nan Gandy, the applicant, stated she is representing the 250 members of the Greater Twin Falls Association of Realtors. She read the proposed amendment to the Commission with conditions for approval. The proposed amendment is requesting to allow Real Estate Open House Signs to be located on the public right-of-way, one hour before and one hour after the scheduled open house subject to: a) limited hours not to exceed five (5) total hours in any one day, b) access of public right of way to remain open including wheelchair access, and c) all open house signs to be removed from the right-of-way within one hour after completion of open house. The manner in which the signs should be placed is a) the signs placed on the sidewalk shall have pedestrian or wheelchair passageway of a minimum of 36", b) shall not exceed 9 sq. ft. in area, c) shall not be placed in a manner that would obstruct any ADA sidewalk or ramp, and d) will not exceed 36" in height. The request is being made to expand the current ordinance in order to allow the 250 Real Estate Members to increase the visibility of temporary directional open house signs. This will help the 421 current families who are trying to sell their homes, as well as those who will sell in the future. It also impacts developers, builders, lenders, title companies, home inspectors, and insurance agents who depend on real estate sales for their continued success. The key to selling a property is to get maximum exposure of the property. Open House Events are an important tool in accomplishing this goal. They are a time honored method for selling homes not only in Twin Falls, but they are a marketing tool used nationally. The present provisions of the current ordinance limit the use of directional signs as an important part of the marketing tool to sell the property. To have an effective open house advertisement is important, ads are costly, realtors are reluctant to place expensive ads in the newspaper when they are not able to place signs out directing potential buyers to the property. Realtors are not asking the ordinance be removed from the books, but to be modified slightly. They are asking for the signs to be placed within the public right-of-way for a very limited time in visible places to direct traffic to the Open House. Real Estate has one of the largest impacts economically and helping real estate thrive helps the City. The real estate market has historically driven the economic recovery process and has been hit hard in the past several years; the industry does not need any other impediments to restrict improvements to the real estate market. As for impacts, city staff mentions concerns regarding the site-triangle however Open House A-Frame signs are only 26" in height (An example of this described sign was presented). City Ordinance 9-9-16 defines obstruction to traffic as follows: obstruction constituting a traffic hazard shall exist if any object, structure or thing, except buildings and residences which are otherwise in conformance with law, is allowed to exist which exceeds three feet (3') above the existing center of roadway in elevation, the proposed amendment

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specifically limits the height of the directional sign to comply with the sight triangle provision. Realtors are not asking for any change in signage at their place of business or any regular realty marketing yard sign. The request is to increase flexibility for the placement of temporary directional devices to direct traffic to an Open House. The business model of realty is unique; no other business provides off-site Open House sales as a service to their clients. Buyers are conditioned to look for directional signs, although staff considers the existing ordinance to be adequate there are other communities that have recognized the challenges of Open House events and the need for directional signs. Similar ordinances are on the books in the City of Ketchum and the City of Caldwell allowing Open House signs in the public right-of-way with similar conditions proposed in this amendment. The association is aware of past problems with placing these signs on the sidewalk as shown in the pictures provided by the staff. Most of the signs shown would continue to be in violation of the ordinance. In an effort to eliminate violations the association proposes an aggressive educational process for all realtor members and new member orientation. Code Enforcement Coordinator Standley has indicated his willingness to provide an educational presentation at one of the associations monthly membership lunches. Association staff would also encourage individual brokers to provide training at their sales meetings.

Staff Presentation:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. The City Council approved Ordinance 2012 on July 6, 1981 which replaced Twin Falls City Code - Title 10; Zoning & Subdivision Regulations in its entirety. In December 2008, Ordinance 2957 was approved by the City Council. This ordinance replaced Twin Falls City Code - Title 10; Chapter 9: Sign Regulations in its entirety. Ordinance 3005 was approved in June 2011 which made changes to references in Twin Falls City Code - Title 10; Chapter 4: Zoning Designations, as well as various definitions in Title 10; Chapter 2: Definitions.

This is a request submitted by the Greater Twin Falls Association of REALTORS asking for the Commission's recommendation on a Zoning Title Amendment which would amend Twin Falls City Code 10-9-9(K) Real Estate Signs. The proposed amendment is requesting to allow Real Estate Open House Signs to be located on any public right-of-way subject to: a) limited hours not to exceed five (5) total hours in any one day, b) access of public right of way to remain open including wheelchair access, and c) signs to be removed from the right-of-way within one hour after completion of open house.

The Greater Twin Falls Association of REALTORS making this request state in their narrative that placing signs on the public right-of-way, although not allowed, has been common practice and the sign ordinance as currently written often effectively eliminates licensed REALTORS from holding Open House Events within the City limits. The narrative further states that placing signs on private property can be problematic in residential and commercial areas due to many obstacles; homeowners not being home very often or not agreeing to allow the signs on their property, not able to get permission from businesses who are either closed on weekends or do not wish to have signs on their property during normal open house hours. These circumstances leave REALTORS feeling that they have few options. This leads them to use the only space available, the public right-of-way.

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The current Twin Falls Comprehensive Plan was updated in 2009. Within that plan, a section was devoted to the design of streetscapes and possible enhancements to road right-of-ways and surrounding corridors. The comprehensive plan does not address commercial signage within the streetscape design guidelines, or its associated streetscape enhancements. Commercial signage within right-of-way is not addressed in the goals or objectives of the Current Comprehensive Plan Community Design Concept Section.

The Commission shall ensure that any favorable recommendations for amendments are in accordance with the established goals and objectives of the current Twin Falls Comprehensive Plan.

If approved, this Code amendment would not change the regulation of signs being prohibited within sight triangles located at intersections of streets, alleys and driveways, as per Title 9; Chapter 9; Section 16. The sight triangle is an industry standard that is focused on providing for and maintaining safety. It is designed to allow clear visibility for all types of traffic (pedestrian, bicycle, and vehicle) at intersections. Signs over three feet (3') tall would still not be allowed in this triangle.

The current City Code prohibits all signs from being placed in the public right-of-way. City Code also prohibits off-premise commercial signage, with the one exception being off-premise Real Estate direction signs. The only rule for off-premise Real Estate direction signs is that they are to be placed on private property. It is reasonable to assume that the level of advertising wishing to be accomplished by this code amendment could be accomplished within the existing regulations outlined in current City Code.

Staff feels that this amendment to the City Code would cause confusion, and possibly an increase in violations by other individuals and entities that will see this as a precedent to allow all types of signs within the public right-of-way.

Planner I Spendlove stated upon conclusion the Commission may recommend to the City Council that the amendment be granted as requested, or it may recommend a modification of the amendment requested (will require another public hearing before the Commission), or it may recommend that the amendment be denied.

Questions/Comments:

- Commissioner Boyd referred to the picture shown on page 11 of the staff report packet and asked if staff knew of the height of the sign and why this sign was in violation.
- Planner I Spendlove explained he did not have the height of the sign. This sign was placed in public right-of-way and many times the road is not built as wide as the road is intended to be built in the future. He deferred this question to the Assistant City Engineer for more clarification.
- Assistant City Engineer Vitek stated that most of the roads in the City were built at a standard width of 50 ft. and as capacity increases the roads are widened up to wherever the City has right-of-way and on most of the streets the right of way extends behind the sidewalk. A lot of people are not aware of this since they have maintained the property up to that point for so long. They cannot find the property pins indicating the true property boundary.

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- Commissioner Boyd stated that she felt the placement of that particular sign was appropriate because it is not blocking the road or the sidewalk. The sign could be in violation because of a technicality that may not be obvious to the property owner or the person putting up the sign.
- Commissioner Frank asked the applicant if this were to be allowed would it give the realtors a privilege that other businesses or even someone in the neighborhood wouldn't have; for example a rummage sale sign or a home based business that wanted to have a sale for a short period of time. Would you be getting something that others in the community wouldn't be getting?
- Ms. Gandy she stated that this industry different than other business because they have a store front but that is not where the product is located. These are off-site remote situations that she doesn't think other businesses deal with.
- Commissioner DeVore asked if this would allow a private individual to have off-site open house signs posted also. So this would impact anyone who was selling their own home.
- Ms. Gandy: yes this code amendment would allow such an opportunity for the general public to have an open house sign if they were selling their home themselves.

Public Hearing:

- Nathan Lyda, 1852 Riverwood Road, explained the National Association of Realtors has done research on the impacts that realty has on the economy, approximately nine (9) Billion or 15.5% of the Gross State Product. Home sales have multiple ancillary effects on the economy including furniture, remodel and other items or individuals who benefit from this economic transaction. When buyers were asked how they found the home they purchased the top three answers were: internet, a realtor and an open house/sign. This tool helps the realtor do what they can to help market properties to the expectations of the seller.
- Stanley Tobiason, 2688 Carriage Way, he explained that they invite people into homes and he would like to be able to have as many people possible visit the homes. Many people just show up to check it out. He had an open house this weekend and the people thanked him for posting the directional signs. The signs would be temporary and they don't plan to block the sight triangle, and he doesn't think that this will set a precedence that will cause people to start putting out more signs on the sidewalk. Open house signs are something that is in the DNA of the real estate world. The process of asking people throughout the neighborhood to put the signs on private property is not feasible. Every time he sets out signs on private property he fears that after the open house they will be missing, luckily it hasn't happened yet. This is an important part of promoting business and supporting the economy of Twin Falls.

Discussion Followed:

- Commissioner Woods explained that he is conflicted on the issue. He does understand the unique situation for needing these directional signs in certain situations but is not sure that it's not going to create a situation where others are going to post signs in the right-of-way also. Another point is that the photos provided show a disregard for the current set of rules. In order to provide some means of compromise, he thought it might be better to only allow free standing signs in the right-of-way limit it to free- standing signs not signs on poles, and required each sign to have the contact number for whoever placed the sign, so that if the sign is in violation there is a means of fining the violator.

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It is clear in the pictures that the rules aren't followed now, having a means to fine and sink some teeth into the violation might be better.

- Commissioner Boyd asked to address Steve directly. These Open House signs already exist, they are already a common practice, they aren't something new coming into the City. She described two types of signs A-Frame Signs, which don't do well in wind, as well as the ones that have to be stuck into the ground; and because of the wind she prefers the ones that get stuck in the ground for stability. As for identification most of the signs have contact information on them so that person could be contacted. When a realtor is paying for their own signs, it is costly and the penalty is when a sign is missing they have to buy a replacement. It is a normal practice for people to look for the open signs. Very seldom are open house signs out for very long after the Open House is over because most realtors want to be able to go home soon after to enjoy their weekend. Education is necessary; she was not clear how public right-of-way can be documented but it is not obvious to the regular citizen. Having this amendment would make the rules very specific.
- Commissioner Munoz asked if signs are currently picked up when they are out of compliance.
- Planner I Spendlove stated typically the Code Enforcement Coordinator will pick them up if they are a safety hazard or a clear violation, in some instances he does try to educate the people when the signs are in violation and gives the person an opportunity to move the sign before he impounds them. The signs can be picked up from the City which could potentially cost \$25.00.
- Commissioner Munoz stated the applicant is claiming that they are a unique business, but he is not convinced that they are the only ones that have sales away from their office. Estate sales for example and a MaryKay lady could be another potential business with off-site sales, and there are a lot more. He knows there are a lot of others like garage sales that place them on poles and other violations occur. He is conflicted as well; he understands how it could be a good tool, and how a well-educated group could manage the signs well. On the other hand, other entities that do not take pride in their signs will not follow the rules after seeing the realtor signs. His biggest concern is that others that are not well-educated about the rules will see the signs and think it is ok to put signs in the right-of-way. He wonders if approval of this amendment will give the realty group and unfair advantage over another group that does not have an association to work with to help them through this process. The process is difficult and he doesn't want to limit things to one specific group. The education will only apply to the groups that care, currently if the person has to ask permission to place a sign on private property they will do it correctly or they won't put it up if the owner of the property says no. Are we limiting the rights to one group, where everyone should have the same rights? Are we also creating a nightmare for other people, and the enforcement of the rules that are different for different groups? That is why I am conflicted, a good organization like the realtors will know the rules whereas someone from the general public may not educate themselves on the rules and not understand why they can't do the same thing we are allowing the realtors to do.
- Commissioner Frank stated he struggles with the term public right-of-way and would like to see something opened up to more businesses, he knows there are other businesses that would like to have off-site advertising opportunities. This does limit it to one group, and he thinks there might be other potential users that would be interested in this allowance. He would like to see something

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that opens it to more users if we are going to allow one group. He thinks the amendment is too narrow.

- Commissioner Boyd asked if there are currently any sign compliance issues and if there are complaints. Do people complain about garage sales, yard sales, selling puppies at Winco?
- Planner I Spendlove explained that there are compliance issues all the time. There are violations with off premise signs all the time for example the signs advertising Christmas lights, blowing out sprinkler systems, cleaning out rain gutters, these are all illegal. Garage Sale signs in right-of-way are the biggest offenders. We have an issue with people putting signs on sidewalks, in roadways, on light poles; yes we have issues with signs in Right-of-way.
- Commissioner Frank asked if there is a way to bring things into compliance isn't that the goal.
- Planner I Spendlove explained compliance is the goal and penalty is the last option.
- Commissioner Munoz stated the realtors will be willing to follow the rules making the public aware of the rules so that compliance is better, he would agree that change and education is necessary. Perhaps we have a mechanism that allows people to call before placing signs so as to make sure they are placing them in the correct place. Most people are willing to do that, are willing to comply with the rules.
- Commissioner Boyd stated that this is an industry trying to serve their clients and work with the City. She doesn't think that there will be a unilateral agreement on code, and policing private citizens, particularly yard sale signs, will not be the same as policing an industry that is trying to make a set of rules that can be followed. These signs have been around forever, and we do have issues with compliance but we have a group who wants to follow a set of rules that allows them to serve their Clients.
- Commissioner Frank explained that there are rules in place currently that aren't being followed, Commissioner Grey agreed.
- Commissioner Woods he thinks the rules can be clear and specific to a group that is educated but the rest of the population just sees signs going up everywhere and they don't know what the rules are and which ones they should follow. It can be very confusing, how do things get controlled with lots of specialized rules for different groups.
- Commissioner Grey stated that the current rules are there now and are not being followed.
- Commissioner Tatum thanked the industry for trying to find an adult way of addressing this concern through a consensus. This could allow independent realtors or independent brokers that would be positively affected for this. Right now I would vote in favor of this at this point to go to the City Council.
- Commissioner Frank stated that the discussion has been lively and he believes it is a needed discussion.

Motion:

Commissioner Woods made a motion to approve the request, as presented, with staff recommendations.

Commissioner Boyd seconded the motion. **The motion was voted on in the following order:**

- Commissioner Grey: No
- Commissioner Munoz: No

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- Commissioner Tatum: Yes
- Commissioner DeVore: Yes
- Commissioner Woods: No
- Commissioner Boyd: Yes
- Commissioner Frank: No

Recommendation to approve the request as presented was denied by a vote of 3 for and 4 against

City Council Public Hearing Scheduled for January 13, 2014

3. Requests a Special Use Permit to replace a legal non-conforming use with another non-conforming use by allowing an assembly business consisting of electrical components on property located at 580 Addison Avenue West. c/o Dan Thiel / ProWest Engineering on behalf of Western Enclosure (app. 2607)

Applicant Presentation:

Dan Thiel, Mountain Sun Construction, representing the applicant stated that the warehouse that was used by the old Hospital and County previously has continued to be used for storage and a shop. The applicant had purchased the property with the idea they would be allowed to use the building for light assembly/storage. The property is zoned R-6 & C-1; the zoning map has the building in two separate zoning districts. This makes the building a non-conforming use. They are applying for a Special Use Permit to operate a similar non-conforming use in the same building. All assembly work will be done completely inside the building; they have been using the building prior to the hearing and have not had any complaints. In order to continue operating they need to have a special use permit approval. The business will operate M-F 8:00-5:00, the impacts to the neighboring area will be minimal. The largest truck used is a flat bed, not a semi. All trucks will maneuver completely onsite. There will not be a paint booth on the premises. If they expand they will be looking for an M-2 property in order to continue their business. The only other concern is that it be limited to ProWest Engineering & Western Enclosure, he wanted to clarify that they do have another subsidiary of ProWest called Eaglegate Systems that uses the location for storage. Eaglegate is the remote controlled gate system company.

Staff Presentation:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. In July 1986 a Special Use Permit was granted to Roger Powell to operate an Auction House. At that time the building had been used as a warehouse. Since that time, it is believed the building changed hands multiple times, Norco used it for storage, Magic Valley Medical Center also used it for some purpose, and most recently Twin Falls County had been using it as a mechanic shop and storage facility. ProWest Engineering purchased the property from the County in May 2012. Since that time they have been using it to assemble electrical components into various sizes of cabinets and as a temporary storage facility for the assembled cabinets and larger cabinets/storage trailer/units. After our initial contact with the owners, we have been in constant communication over the zoning issues that are on the property, mainly that the building is located in two different zoning districts. This assembly & storage facility will be used in conjunction with their primary office located on the corner of Martin Street and Addison Ave West.

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The applicant has supplied a narrative detailing most of the general operations of the business. Hours of operation are stated to be 8am – 5pm- days of the week were stated previously. Traffic generation would be minimal, with 2-5 employees and deliveries of components via UPS/FedEx. Occasionally larger components will be delivered on large trucks. The parking area & pick-up/delivery areas are shown on the site plan. As per City Code 10-10-2(B)- Backing a vehicle from an off street parking space directly into a public traffic way creates a traffic hazard... and shall not be approved by the City Engineer ...". Upon operation of this business as proposed there appears to be minimal impacts to the surrounding areas via noise, glare, and odor.

ProWest is the electrical engineering firm that designs electrical systems for very specific uses in agricultural, mining, and industrial uses. Western Enclosure will be the subsidiary company that will assemble the various electrical components into finished "cabinets", "enclosures" or "shipping containers". These enclosures vary quite a bit in size from 2'x3' up to large metal shipping containers. (Sample photos are found in this packet). The existing building stands within a lot which is zoned both C-1 and R-6 PRO. The Official Zoning Districts Map has the boundary line bisecting the building itself into two (2) differing zones. The use of the property, and the building, when Twin Falls County used it was deemed a legal non-conforming use due to the establishment of the R-6 Zone on part of the property.

Per City Code 10-3-4(A)-1e: "A legal nonconforming use involving a building may be resumed or replaced by another nonconforming use by special use permit if said legal nonconforming use has not been discontinued for more than five (5) years. In addition to the general standards applicable to special uses, the applicant must show that the existing building cannot be reasonably converted to a conforming use." It has been determined that the county's use of the property as a mechanic shop continued the legal nonconforming use established prior to when the Zoning Map changed. The non-conforming uses have continued as such up until the sale of the property to ProWest in May 2012. The proposed use of the property as an electrical cabinet/enclosure assembly business would be considered another nonconforming-use as neither the R-6 PRO or the C-1 zoning designations list "retail assembly" as an allowed use. The reasonable conversion of the property is problematic due to the bisecting of the property by two zones we believe it would be unreasonable to convert the building to comply with both Zoning districts.

Per City Code 10-7-6: Martin Street is classified as a collector street and has a building setback of 62' from the centerline of Martin Street. This setback is currently being met by the existing building.

Per City Code 10-10: Off Street Parking is required for this business at a rate of one (1) space to four hundred (400) square feet of floor area. The site plan furnished by the applicant shows this parking requirement being met and exceeded. In addition, the owners have cross use parking agreements with their main office (598 Addison Ave West), as well as the Vendor Blender located at 588 Addison Ave West. Despite these cross use agreements, there appears to be adequate parking for all three businesses.

Per city Code 10-11-1 thru 8: Required improvements are required when there is a "Change of Use". These required improvements include landscaping, screening, parking, parking & maneuvering areas, streets, and drainage and storm water. The landscaping, screening, parking, and streets are pre-existing, and they were

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accepted by the City at an earlier time. Since there is no increase to impervious surface there is no current requirement to increase storm water drainage or storage capacity.

The use of the property as outlined in the narrative provided by the applicant does not match up precisely with any definitions currently existing in our zoning code. The general impacts this business will have on surrounding properties should be focused on the delivery methods, general operation of the business, as well as the future paint booth that will be associated with the electrical cabinet assembly and delivery. It is reasonable to assume that the traffic generated by employee's and deliveries via UPS/FedEx are acceptable in the C-1 Zoned areas. The occasional large delivery truck may also be acceptable as long as these trucks do not back onto major roadways before, during, or after their deliveries.

It is not believed the general operation of the assembly shop will cause unreasonable levels of noise, odor, or glare. There will be some minor noise due to the nature of assembling the various components and cabinets. This activity should and will be located fully within the existing building thus greatly reducing the possible impact of noise on neighboring property owners.

Planner I Spendlove stated upon conclusion should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to this Special Use Permit being limited to ProWest Engineering/Western Enclosure/EagleGate Systems only.
3. Subject to limiting the number of large metal shipping container sized enclosures to a maximum of two (2) on the property at one time and to be located inside the building at all times.
4. No outside storage of materials or finished product at any time.

Questions/Comments:

- Commissioner Frank clarified that parts are collected and assembled into a product. They are not stamping cabinets or creating cabinet.
- Mr. Thiel stated that is correct.
- Commissioner Woods asked a question on outside storage, the pictures depict materials outside the building. What is happening there?
- Mr. Thiel stated that these materials shown are leftovers from the different remodels; they have kept some of the materials for reuse. With the advent of condition number 4 it will be cleaned up.
- Commissioner Grey asked if during the County's tenure on the lot they had used that area to store materials.
- Planner I Spendlove stated he did not have proof, but it could be safe to assume they did use it for some storage.

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Discussion Followed:

- Commissioner Grey stated that he has concerns about limiting the storage area, perhaps the pods or containers would be neater.
- Commissioner Frank asked if there is a need for storage of parts.
- Mr. Collins, 2648 College Way, the applicant, explained they have approximately 50% of the components that have to be stored for 3-4 weeks prior to completing the assembly of the product.
- Commissioner Grey asked if there was enough space inside the building to store the needed component. He did not want to impede the business adversely by requiring storage inside if it was not going to have a negative impact.
- Mr. Collins stated the building had enough space to store what was needed.
- Commissioner Munoz asked about limitations of outside storage with screening.
- Planner I Spendlove there wouldn't be an issue with outside screened storage. He also explained that this type of use is not listed in the zoning code, and the assembly use type fits more to manufacturing, by requiring the storage to remain inside the building staff tried to keep the property in conformance with C-1 zoning standards and not have the components outside like they are allowed in the Manufacturing zones.
- Commissioner Woods asked if this is granted could the applicant later amend the conditions of the special use permit to allow a storage unit outside if they strongly felt they needed it.
- Planner I Spendlove affirmed that the special use permit could be brought back for amendment.

Motion:

Commissioner Munoz made a motion to approve the request, as presented, with staff recommendations. Commissioner Tatum seconded the motion. **All members present voted in favor of the motion.**

Approved, as presented, with the following conditions

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to this Special Use Permit being limited to ProWest Engineering/Western Enclosure/Eaglegate Systems only.
3. Subject to limiting the number of large metal shipping container sized enclosures to a maximum of two (2) on the property at one time and to be located inside the building at all times.
4. No outside storage of materials or finished product at any time.

Commissioner Munoz excused himself from the meeting.

4. Requests a Special Use Permit to construct a new convenience store and gas station operating twenty-four (24) hours a day, seven (7) days a week, on property located at 1662 Park View Drive. Kyle Castle dba Castle Corner Corp (app. 2609)

Applicant Presentation:

Gerald Martens, EHM Engineers, Inc., representing the applicant stated that the request is to allow a convenience store to operate 24 hours. The applicant currently has a building permit; the convenience store is an allowed use in this zone. It will be located close to Walmart and the new St. Luke's Hospital

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both of which operate 24 hours-a-day on a large scale. There are no residences within a ¼ mile and it will be located on the largest roadway in the community, Pole Line Road. It will be very compatible for the area. There are three staff recommendations and agree with condition 1 and 3. Recommendation #2 was placed on here, but the applicant is aware that in the future there may be a change ingress/egress onto the property. This is documented on the plat for future determination to be made by City Engineer. As the area develops this center curb may be needed, but we would like to have that at the City Engineers discretion and all signage will be installed at that time.

Staff Presentation:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. Ordinance 2012 was passed in 1981, it created the zoning districts we currently use, and zoned various properties within City Limits. The new zoning designations were assigned at that time, or when areas were annexed. The site is zoned as North Haven Business Park C-1 PUD and was annexed on June 14, 2004. A Preliminary Plat was approved on July 13, 2004, for a ten (10) lot subdivision. The Final Plat was approved on November 1, 2004. The PUD agreement on this lot dictates a lot of the site plan and layout. These items have been or will be reviewed with the building permit that has already been submitted, they are still applicable and will be reviewed for compliance. The one item we are looking at tonight is the retail store hours.

Per City Code 10-4-8.2: Permitted retail/trade uses operating outside the hours of seven o'clock (7:00) AM to ten o'clock (10:00) PM requires a special use permit in the Commercial Highway District (C-1). The C-1 Zone is intended to provide commercial activities of various sizes from large retail stores to small specialty shops with residential opportunities for persons wishing to work and live in a unified environment. The C-1 Business Park PUD Agreement does not waive the special use permit process for extended retail hours of operation. It did however; waive the requirement for a retail store/gas station, usually those operations require a Special Use Permit.

The North Haven Business Park C-1 PUD Amended Agreement states that there shall be a 35 foot wide landscape buffer from back of curb along Pole Line Road West and a 20 foot wide landscape buffer from back of curb along Park View Drive in addition to required landscaping. This PUD requirement is being reviewed currently with the building permit and will be required to comply.

Possible Impacts: The neighboring properties are currently undeveloped. There is currently St. Luke's Magic Valley Regional Medical Center and Wal-Mart in the area that operate twenty-four (24) hours a day. Other uses within the area are medical facilities, retail, and a bank. These various businesses may not be greatly impacted by these proposed extended hours.

The applicant's submitted site plan indicates a left turn off Park View Drive into the proposed convenience store/gas station. There is a note on the recorded final plat that states;...." *a six (6") inch high minimum six (6") inch wide continuous ribbon concrete curb may be constructed at a future date at the discretion of the City Engineer in a location determined by the City Engineer between North Haven Drive and Pole Line Road (West).*" Development is a major consideration in determining when the ribbon curb shall be constructed.

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The applicant has been informed by the City Engineer that there will be a ribbon curb constructed on Park View Drive in the near future. Left turns into the proposed facility will not be allowed when the construction of the curbing occurs. The ingress/egress allowed on Park View Drive will be a right-in/right out only. This information is documented on the plat and the applicant is aware of the future plans.

Planner I Spendlove stated upon conclusion should the Commission grant this request, as presented; city staff would recommend approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to compliance with the North Haven Business Park C-1 PUD.

Questions/Comments:

- Commissioner Woods asked why the ribbon curbing requirement was placed on the plat.
- Assistant City Engineer Vitek explained that they don't want traffic to stack onto Pole Line Road while waiting for someone to turn left into this facility on Park View, at this time there will not be much movement through the area, so the ribbon does not need to be installed at this time, but may become necessary in the future.

Public Hearing: OPENED & CLOSED WITHOUT COMMENT

Discussion Followed: WITHOUT CONCERNS

Motion:

Commissioner Woods made a motion to approve the request, as presents, with staff recommendations. Commissioner DeVore seconded the motion. Motion passed 6-0, all members present voted in favor of the motion (Commissioner Munoz had previously excused himself from the meeting).

Approved, as presented, with the following conditions

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to compliance with the North Haven Business Park C-1 PUD.

V. PUBLIC INPUT AND/OR ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION:

- Commissioner Frank asked if there will be enough attendance to have the first work session meeting January 2, 2014 as an alternative, because January 1st is a Holiday. The January work session will be canceled because of a lack of attendance.
- Council Liaison Mills Sojka recommended that the discussion about code requirements for signage continue at the next Planning & Zoning Work Session meeting.
- Council Liaison Hawkins brought up the point that the Council has made a decision that with the meetings being live streamed to have people give the City they are from versus their actual physical address going out over the air. She also reviewed the decision of the City Council to make the ZOAC group an official committee. It has been decided that only two members of the Commission can serve on the committee however all of the meetings will be live streamed and recorded but if you are not serving on the committee you can't have any official input at the meetings.

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- Planner I Spendlove explained that the staff would like to make a recommendation that the discussion regarding the landscaping on property located at 284 Washington Street North be postponed until possibly March. The thought is that at this time of year we would not be able to make a fair determination on whether or not the landscaping is alive or dead and that requiring an applicant to replant this time of year would not be feasible.
- Commissioner Grey agreed that the discussion would be more appropriate in March.
- Commissioner Woods asked if there is a sign committee.
- Commissioner Frank stated there was a committee but it is not active at this time.
- Commissioner DeVore excused himself from the meeting.
- Commissioner Woods asked staff to look at a car that is parked in the sight triangle at Eastland Drive and Falls Avenue intersection.
- Commissioner Woods asked about Bridgeview landscaping requirements if the road were ever widened. There would no longer be room for parking and the landscaping along that area would be removed.
- Commissioner DeVore returned to the meeting.
- Planner I Spendlove explained that the City would negotiate the issues related to the code requirements and landscaping. It is a very specific negotiation as to what would remain or what would be removed. It is a negotiation between land owner and the City; all codes that can be complied with are followed.
- Commissioner Boyd asked if she can speak at the City Council meeting when the sign code is presented.
- City Attorney Wonderlich stated yes, as a citizen she can speak at the Council meeting regarding the sign code amendment request because it is a legislative action.
- Council Liaison Mills Sojka stated that her interpretation for the two person rule applied to the appointed members only and the fact that the meetings are open to the public, she didn't see an issue with the other members being present. It was not the intent to further limit the meeting discussion, it was to open the discussion up to the public and that includes members of the Commission; this will need to be clarified more.
- Planner I Spendlove explained that the next ZOAC meeting has not been scheduled and will not be scheduled until these clarifications have been made and the new liaisons have been assigned.

VI. UPCOMING PUBLIC MEETINGS (held at the City Council Chambers unless otherwise posted):

1. Public Hearing- **Thursday, December 26, 2013** 6:00 pm
2. Work Session- **To be determined**

VII. ADJOURN MEETING:

Chairman Frank adjourned the meeting at 8:03 pm.

This meeting has been recorded and posted on the City of Twin Falls website at the following link:

http://twinfalls.granicus.com/MediaPlayer.php?view_id=2&clip_id=142

Lisa A Strickland
Administrative Assistant
Planning & Zoning Department