

**HEARING EXAMINER
ELECTRONIC OFF-PREMISE SIGN
FINDINGS OF FACT AND DECISION**

DATE: March 23rd, 2017

APPLICANT: Jeeves Ads
Represented by Blaze Signs

MAILING ADDRESS: 1110 Yellowstone
Pocatello, Idaho

LOCATION OF REQUEST: 978 Hiline Road
Pocatello, Idaho 83201

I. REQUEST

Jeeves Ads, represented by Tony Golsarry of Blaze Sign, requests an electronic off-premise sign (billboard) at 978 Hiline Road. The proposed sign meets City standards but a property owner was opposed and this prompts the need for a hearing. The sign is proposed to be 35 feet in height and 288 square feet on each side. The property is located within a Commercial General zoning district which allows off-premises signs as long as they are not within 250 feet of a residential zoning district, designated historic district, park, school, church or cemetery, measured in any direction from said signs. However, if a property owner within 200 feet of the property line of the subject sign is opposed, a public shall be held.

II. PUBLIC HEARING

A public hearing was conducted by the Hearing Examiner on March 23rd, 2017. Presentations were provided by the City Staff, then the applicant's representative, then the public was provided an opportunity for comment. The Staff presentation summarized their evaluation of the proposal and made a recommendation for approval.

III. MUNICIPAL CODE/COMPREHENSIVE PLAN

The following Municipal Code Sections are applicable to this request:

15.20.240 governs Off Premises/Billboard signs. It states in (A):

- A. Off premises/billboard signs shall only be permitted in office park, light industrial, industrial, and commercial general districts. Permits for signs meeting the requirements below may be issued by staff. However, the following additional requirements shall apply to commercial general districts:*
 - 1. Applicants for signs in commercial general districts must provide a mailing list of property owners and tenants within a 200 foot radius of the property line to whom notice of the application will be sent by the city;*
 - 2. A 21 day waiting period shall be required prior to sign construction or erection, during which time period any aggrieved person so notified may make a written protest to the planning and development services department for a hearing before the hearing examiner. A decision of the hearing examiner may be appealed to the city council within 15 days of the date of the hearing examiner's decision;*
 - 3. No construction or erection of signs shall be allowed pending the outcome of either hearing;*
 - 4. The decision of the city council shall be final;*
 - 5. The review criteria used by the city council and the hearing examiner shall be as follows: The proposed sign must be designed to minimize adverse effects on adjoining land and the proposed sign must be designed to be as compatible in appearance and layout with adjacent uses as is practical.*

The Code requires a 21-day waiting period from the date the notice notifying the neighbors about the proposed sign before a permit can be issued during which time any aggrieved person may make a written protest and request a hearing and consideration of the proposal by the Hearing Examiner. One letter in opposition has been received from a notified property owner regarding this application.

Additional requirements that pertain to Office Park, Light Industrial, Industrial as well as Commercial General zoning districts are also listed in MC 15.20.240.

IV. SIGN EXCEPTION FINDINGS AND ANALYSIS

Findings regarding compliance with standards for a Sign Exception (Section 15.20.260) are listed below:

A. The proposed sign must be designed to minimize adverse effects on adjoining land.

Analysis: In meeting the brightness standards that are listed in Municipal Code 15.20.240(B)(7) (c) the sign will be less intrusive to the residential district to the west. Also, the applicant has stated that they are positioning the faces of the sign so it will not be shining directly toward the residential district to the west.

B. The proposed sign must be designed to be as compatible in appearance and layout with adjacent land uses as is practical.

Analysis: Due to the fact that the adjacent land uses are commercial business, the proposed sign is compatible.

V. FINDINGS OF FACT

Based on an analysis of the application materials, pertinent Municipal Code Sections, Comprehensive Plan Goals and Objectives, and information obtained at the public meeting, the Hearing Examiner finds the following:

- 1) The Hearing Examiner disclosed that he had visited the site to observe physical character and relationships of the subject property and surrounding area. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered, stated, or requested at said public hearing.
- 2) Staff indicated they received one letter in opposition to the application which based on the City Ordinance is what prompts this application to go before a Hearing Examiner even though based on zoning, the billboard would be legal conforming sign.
- 3) Staff indicated they sent out an additional four notices to neighbors who were just outside the 200-ft notification based on distance from the sign and not the property line.
- 4) Staff indicated their recommendation for approval was prior to their having received the letter from ITD recommending denial of the application due to safety concerns of having an electronic

billboard backdropping traffic signals at an intersection with an already high incidence of traffic accidents. Your Hearing Examiner questioned Staff to see if said ITD correspondence would have changed their recommendation had it been received during the writing of their report. Staffs response was a resounding affirmation they would have recommended denial.

5) Staff forwarded a total of six (6) letters they received after their report had been completed. Four (4) of those letters were from residential neighbors adjacent to the subject sign and all were in opposition to the request. The other two (2) letters were from City of Pocatello Traffic Operations Supervisor and ITD Dist 5 Traffic Engineer and both were encouraging denial based on the proposed billboard being a backdrop to and within the line of sight of traffic signals for northbound traffic on Jefferson.

6) The Hearing Examiner noticed a couple discrepancies in the application and suspected Staff could respond to those as clarification to fact. The first was the sign image in the application is shown in a slightly different location than shown on the web map. Staff reported they marked up the location further north on the property line as there would have been conflict with the distance to a church and school across Pocatello Creek. The second discrepancy was the orientation of the sign face from the image included in the application. The image indicated a due west face where subsequent information indicated a double faced sign with sign faces in a southwesterly orientation and a northeasterly orientation with a slight angle between the two faces.

7) The Applicant indicated he has been a resident of Pocatello for 18 years and has had the digital advertising company for 4 years. As a resident, he has the same concerns as the neighboring residents and does not intentionally desire to create hardship on the surrounding residents. He researched numerous locations for the subject billboard and thought he'd found a perfect fit where the zoning outright allows such signage.

8) The Applicants Representative stated the light source of the LED lighting would project approx 200 feet and the sign faces would be directed away from the residential areas. He also indicated the light output at night would be 35% less than the output during the day but gave no indication of actual light output for reference to brightness during the day or night. The Representative was questioned about the cutoff angle of the LED light sources within the sign as related to the view angle map he provided and again gave no indication for what the cutoff angle might be.

9) The Applicants Representative submitted to Staff upon their request that a line of sight map be provided showing the anticipated light emanating from the sign faces. During the hearing the

Representative also submitted an image of the sign as seen from Jefferson indicating the sign might not be backdropping the traffic signals. This is just an assumed graphic representing where they believe the sign does not conflict. This graphic is not scaled to prove actual conflict or not.

10) Nathan Cuoio, an Attorney representing Steve Gallafent who was unable to attend the hearing, stated that he could speak to most of the concerns of the residents in the audience. He reiterated some of the Police reported accident history and entered photographic info into the record trying to depict where the sign would be located relative to the traffic signals at the intersection as well an exhibit of the Pocatello Comprehensive Plan and an exhibit of the Sign Code suggesting these documents prohibit the subject billboard from being allowed.

11) The Hearing Examiner requested a show of hands of anyone else in the audience who might want to address the hearing if they had any new and additional information they deemed pertinent to the findings of fact. One individual, Charles Hacking came forward stating he believed the sign would obstruct his view and cause a light nuisance to his property on the hill behind the subject sign.

12) After the public had their opportunity to address the hearing, the Hearing Examiner gave the Applicant an opportunity for rebuttal of any kind. He came forward indicating he understands the residents concerns and had he known there was going to be such disention that he would have made an effort to have met with the residential neighbors. When he had finished his rebuttal, the Hearing Examiner made a suggestion for compromise which is included below in the conclusions and decision.

13) Reference Staffs report for project review and public input as other Findings of Fact.

V. CONCLUSIONS AND DECISION

Based on the above findings, the Hearing Examiner concludes that the request as submitted creates an obvious traffic hazard for northbound traffic on Jefferson; therefore, this request is denied. However the Hearing Examiner proposed a compromise of having southwest face be a static non illuminated sign such that if it is in the vicinity of the view of the traffic signals, it would be no different than the static objects on the hillside beyond. As for the northeasterly facing sign, the "line of sight" shall be directed with the centroid of the view cone more easterly without being directed at any of the residences across Pocatello Creek. Currently the centroid is

