HEARING EXAMINER
AGENDA
Thursday, April 25, 2019
5:30 p.m.
City Council Chambers
911 N. Seventh Avenue
Pocatello, ID

City Hall is accessible to persons with disabilities. Program access accommodations may be provided with three (3) days’ advance notice by contacting Skyler Beebe at sbeebe@pocatello.us; 208.234.6248 or 5815 South 5th Avenue, Pocatello, ID.

HEARING EXAMINER: Keeven Shropshire

1. Disclose who was talked to, the basic substance of the conversation, and whether the conversation had any influence. Disclose if there is anything personally or professionally that would not allow an impartial or unbiased decision. Disclose if a site visit was done, location(s) of the visit, and what was seen.

2. NR Investments, LLC, represented by Marshall Rossiter, requests a conditional use permit to allow construction of an assisted living facility on the property located on Hawthorne Road and Snowbird Avenue. The property is located within a Residential Commercial Professional zoning district. Municipal Code 17.03.330 allows this use through the conditional use permit process. (ACTION ITEM)
Hearing Date: April 25, 2019

OWNER: NR Investments, LLC
2860 N. Rapid Creek Road
Inkom, ID 83245

REPRESENTATIVE: Marshall Rossiter
124 Teakwood Street
Pocatello, ID 83204

REQUEST: The applicant is requesting a conditional use permit to allow construction of an assisted living facility on the property located on Hawthorne Road and Snowbird Avenue.

LEGAL DESCRIPTION: Lot 1, Block 7, Ward Park Subdivision, 1st Addition

SITE CHARACTERISTICS: Zoning designation: Residential Commercial Professional (RCP) Property size: The lot measures 37,190 square feet (more or less) Existing structures: None

SURROUNDING LAND USES AND ZONING:
North: Residential dwellings and Hawthorne Pet Den in a Residential Commercial Professional zoning district
South: Residential dwellings and Mr. Mower in a Residential Commercial Professional zoning district
East: High density residential dwellings and an assisted living facility in Chubbuck
West: Residential dwellings (including four assisted living facilities) in a Residential Medium Density Single Family zoning district

COMPREHENSIVE PLAN LAND USE MAP DESIGNATION: Commercial

PROCEDURES AND NOTICES:
1. In accordance with Municipal Code §17.02.130, §17.02.300(A)(3), and Idaho Code §67-6512, a complete conditional use permit application was filed with the Planning and Development Services department at least four weeks prior to the public hearing.
2. The application was scheduled to be heard at the April 25, 2019 Hearing Examiner at a public hearing in accordance with Municipal Code §17.02.300 and Idaho Code §67-6512.
3. Notice of the public hearing was in accordance with Municipal Code §17.02.300 and Idaho Code §67-6512.
   a. Notices were provided to political subdivisions on April 9, 2019.
   b. Notices to property owners of record within 300 feet of the subject site were mailed on April 9, 2019.
   c. Legal notice was published in the Idaho State Journal on April 9, 2019.
   d. Signs were placed on the properties on April 12, 2019.
   e. The agenda and supporting documentation were posted to the City's website on April 18, 2019.
APPLICABLE LAWS AND PLANS:
1. Municipal Code §17.02.130 and §17.02.300
2. 2015 City of Pocatello Comprehensive Plan
3. Idaho Code §67-6512

Type of Action: Quasi-Judicial. The Hearing Examiner may approve with or without conditions or may deny the application.

Municipal Code §17.02.130(E), "Authority to Grant: The hearing body may approve, approve with conditions, or deny an application for a conditional use permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section §67-6521) to the City Council, using the process outlined in Municipal Code Section §17.02.400, Appeals, of this title.

The hearing body may impose any conditions necessary to accomplish the following:
1. Minimize potential adverse impacts on other developments and surrounding land use;
2. Control the sequence and timing of development;
3. Control the duration of the construction period;
4. Assure that development is maintained properly;
5. Require the provision for on site or off site public facilities or services;
6. Require more restrictive standards than those generally required by this title;
7. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction;
8. Require that studies addressing demographic, economic, fiscal, traffic, engineering, geologic, and environmental concerns be conducted prior to granting approval.

Municipal Code §17.02.300 states that conditional use permits of less than 1.5 acres shall be heard and decided on by the Hearing Examiner with an appeal to City Council.

CONDITIONAL USE PERMIT ANALYSIS:
Municipal Code §17.02.130(D), Criteria for Review. The hearing body shall review the facts and circumstances of each proposal in terms of the following standards and determine whether there is adequate evidence showing that the requested use at the proposed location:

1. Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the code unless modified through the CUP process.

Applicant's response: "Yes it is permitted within the subject land."

Staff analysis: The assisted living facility is a conditionally permitted use in RCP zoning districts. Municipal Code §17.05.570 requires one parking space per two beds plus one per employee. They have identified 13 off-street parking spaces for a 20-bed assisted living facility. Municipal Code §17.05.560(K) states, "A minimum of one parking stall for the handicapped shall be provided, or as based on Americans with Disabilities Act requirements, whichever is greater." By meeting the standards listed it complies with the applicable provisions of the code.

2. Is consistent with the goals and policies of the comprehensive plan of the city.

Applicant's response: "Yes it is consistent with goals and policies of the Comprehensive Plan of the City."

Staff analysis: Staff finds the application is consistent with the following goal and policy of the Comprehensive Plan:
Chapter 12: Housing

Goal 2: Adopt zoning districts and development regulations that allow for a variety of housing types responsive to the needs within the community.

Objective 2.1: Encourage the development of housing for those with special needs including but not limited to the elderly, mentally ill and disabled.

3. Is compatible with existing and permitted land uses within the general area.

Applicant's response: "Yes"

Staff analysis: The Hawthorne Road corridor, especially in Chubbuck, consists of a mix of land uses. There is an assisted living facility, entrance to the Pine Ridge Mall, high density residential, Allstate and Home Depot in the vicinity. The use as an assisted living facility is a residential use that is compatible with the existing and permitted land uses in the area. There are five (5) other assisted living facilities in the area so it will not be out of character with land uses in the area.

4. Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety and welfare.

Applicant's response: "Yes"

Staff analysis: The location is a lot in an existing subdivision on Hawthorne Road which, according to Bannock Transportation Planning Organization is designated a principal arterial. The subject lot would be accessed by Snowbird Avenue or Kammi Drive, designated local streets. It can be adequately served by public facilities. Hawthorne Road is on a bus route and there is a bus stop directly across Hawthorne from the subject property.

5. Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.

Applicant's response: "Yes"

Staff analysis: The assisted living facility will be harmonious with all adjacent permitted land uses. There are five (5) other assisted living facilities in the general area. There is a dog boarding business north of the property and high density residential to the east.

6. Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.

Applicant's response: "No it would not adversely affect the environment."

Staff analysis: This use will not adversely affect the environment more than if the property were developed with a permitted use.

7. Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.

Applicant's response: "No it would not be detrimental in anyway."
Staff analysis: The proposed use will not be detrimental to the public interests, health, safety or welfare of the city.

PUBLIC COMMENTS: No comments either in support of in or opposition to the application have been received as of the completion of this report.

STAFF CONCLUSION: Staff finds the request meets the standards for a conditional use permit. If the Hearing Examiner should choose to approve the request staff recommends the following conditions:

1. Municipal Code §17.05.250(C) requires one tree at least one and one-half inches (1 ½") caliper for every thirty-five (35) linear feet of frontage. A landscaping plan shall be submitted with the building permit.
2. Municipal Code §17.05.220(H) allows for non-vegetative ground cover not exceeding 50% of the total landscaped area.
3. Approved building permits must be obtained and the assisted living facility must meet appropriate standards according to current building codes.
4. All life safety issues must be addressed according to current building codes.
5. All other applicable City Code requirements not herein stated, including but not limited to parking, setbacks, etc., shall be met prior to occupancy of the buildings.

REPORT BY: Terri Neu
REPORT DATED: April 18, 2019

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REPORT DATED: April 18, 2019

tneu@pocatello.us
208.234.6500

ATTACHMENT: A. Overhead of the surrounding area
B. Application materials
PLANNING & DEVELOPMENT SERVICES
PO Box 4169, 911 North Seventh Avenue
Pocatello, Idaho 83205
(208)234-6184 FAX (208)234-6586

CONDITIONAL USE PERMIT APPLICATION

Submittal Date: 4.219 Heating Date: 4.25.19 Permit #: 19-199
Plan Review Approved by: TN Receipt #: ____________ Receipt Date: 4.8.19

Dates for a public hearing will not be scheduled until application is deemed complete.

Filing Fee: $510.00 + 21 x $3.00 per address = $63.00 = Total Due $573.00

Applicant:
Name: NR INVESTMENTS LLC
Street address: 2800 N Rapid Horse
City, ST, Zip: Inkom, ID, 83245
Phone: (208) 681-4740
Email: rocheelectricinc@gmail.com

Representative:
Name: Marshall Rossite
Street address: 124 Teakwood St.
City, ST, Zip: Pocatello, ID
Phone: 208-251-1967
Email: rossiterarch@gmail.com

Project Information:
Street Address: NONE
Legal Description (attach documentation—see C, below): LOT 1 BLOCK 7
War-A Park Subdivision 1st Addition, Instrument #
Brief Description of Proposed Project: Assisted Living Facility, 20 UNITS, 53 OCCUPANCY

THE FOLLOWING INFORMATION MUST ACCOMPANY EACH APPLICATION TO BE COMPLETE

☑ A. All necessary filing fees and other specified plans and descriptions must be paid and/or filed accompanying your application.

☑ B. A title report, property deed, or other legal documentation of ownership of the site in question, whether freehold, option, or lease.

☑ C. The complete and accurate legal description for the subject property shall be submitted. This can be obtained from the Bannock County Assessor by requesting a copy of the controlling document for the subject site or address. A copy of this document shall be submitted with this application.

☑ D. Two sets of typed, gummed mailing labels with all of the names and addresses of the property owners within a 300 foot radius of the subject property. A charge of $3.00 per property owner and resident is required. A signed Affidavit of Mailing List must also be submitted (attached).

E. Two (2) site plans, one (1) measuring 8-1/2” x 11” and one (1) 18” x 24” (or larger), which describe the proposal and contain the following information:
1. Drawn to scale.
2. Building spacing (including setbacks for front yards, side yards and rear yards).
3. A detailed layout of the parking area and landscaping of that area.
4. Pattern and dimensions of all sidewalks on the parcel.
5. Proposed containment of on-site storm drainage.
6. Type, quantity and size of proposed landscaping on-site (or separate landscape plan).
7. Location of curb cuts and access to streets and alleys.
8. Screening or fencing to be provided (type and height).
9. Any easements or restrictions on the property.

F. One (1) set of complete design plans or written description of the proposed structure or additions including elevations and finished details (including material type and color).

G. A written analysis of your request must accompany your application. It should detail the request as well as the reasons a conditional use permit is needed. Studies may be included and all steps being taken to ease the effect of this conditional use should be outlined. The written analysis must fully address each of the following standards (contained in Section 17.02.130 of the Zoning Ordinance):

1. Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the Zoning Ordinance unless modified through the CUP process.
2. Is consistent with the goals and policies of the Comprehensive Plan of the City.
3. Is compatible with existing and permitted land uses within the general area.
4. Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police, and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare.
5. Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.
6. Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.
7. Would not be detrimental to the public interests, health, safety, or welfare of the City in its proposed location, size, design, and operating characteristics.

H. If a representative will be submitting the application, an affidavit, power of attorney, or other document evidencing the right of the representative to appear and submit items on behalf of the property owner.

The approval of this application does not permit the violation of any federal or state codes, any section of the Building Code, or other Pocatello Municipal Codes as adopted. Approval of this land use permit does not exempt applicant from the provisions of the federal Fair Housing Act or ADA requirements. Further, other conditions, requirements, etc. may be imposed as part of the building permit process.

A conditional use permit must be established within one (1) year of the granting of the use permit. Actual construction of the permitted building shall constitute such establishment. This period may be extended by Planning and Development Services staff for an additional one (1) year upon request at least 30 days prior to expiration of the initial 1-year period and provided the applicant demonstrates good cause for the delay.

This application shall not be considered complete (nor will a hearing before the Hearing Examiner or Planning and Zoning Commission be scheduled) until all required information has been submitted and verified.

I hereby acknowledge that I have read this application and state that the above information, including all submitted materials, is correct and I agree to the above terms and conditions. I further agree to abide by any and all conditions Hearing Examiner or Planning and Zoning Commission may impose on my use of this site. I also understand that non-conformance with these conditions in a timely manner will result in automatic forfeiture of my permit. I am also aware that the applicant or a representative must be present at the public hearing and that the decision on this request will be recorded in the official records of Bannock County.

Applicant's Signature: Marshall Rosenthal, Architect
Date: 3/29/2019

Representative's Signature: Marshall Rosenthal
Date: 3/29/2019

*A sign giving public notice will be posted at the proposed site during the course of these proceedings.

Page 2 of 6 Updated 10/1/16
To: Pocatello City Planning Dept.

Item G.
Brief: Ward Park Assisted Living currently has four 15 bed facilities in the Ward Park Subdivision between Wright Ave. and Heber Ave., just around the corner from this new proposed 20 Unit facility. This facility falls under a I-1 occupancy with 20 units, which requires that a Condition Use is approved to be in a RCP Zone.

G. 1) Yes it is permitted within the subject land.

G. 2) Yes it is consistent with goals and policies of the Comprehensive Plan of the City.

G. 3) Yes

G. 4) Yes

G. 5) Yes

G. 6) No it would not adversely affect the environment.

G. 7) No it would not be detrimental in anyway.

Please let me know if you have questions or comments.

Thank you,

[Signature]

Marshall Rossiter