DATE:        April 29, 2019
APPLICANT:   NR Investments, LLC
REPRESENTED BY: Marshall Rossiter
PROPERTY OWNER: NR Investments, LLC
LOCATION OF REQUEST: Lot 1, Block 7, Ward Park Subdivision, 1st Addition
MEETING DATE: April 25, 2019
ASSIGNED STAFF: Terri Neu

I. REQUEST

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, Bannock County, Idaho

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

II. FINDINGS OF FACT

1. Your Hearing Examiner discloses that he visited the site to observe the physical character and relationships of the subject property and surrounding area. While conducting the site observation on April 24, 2019, the neighbor who submitted a letter to City Staff came out to explain the items of his letter with the Hearing Examiner. The content of the letter and the ensuing discussion was not relevant to the hearing. Other than the discussion with Mr. Alston, no other ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing.

2. City Staff received one letter from the adjacent property owner to the north of the subject property. That letter from Marcie Alston-Turner and Timothy Alston was read into the record at the public hearing. No other comments either in support of or in opposition to this request were received.

3. City Staff requested an additional condition be added to their report. That condition has been included as condition #6 below.
4. The Applicants Representative confirmed the Owner is not intending to change the configuration of nor capacity of the existing drainage swale are along the northern edge of the property. They will make improvements and as such they will trim up and thin the trees, remove debris and install a rock mulch.

5. The Applicants Representative provided two revised site plan drawings (options) reducing the square footage of the proposed building, both of which increased the building setback, indicating the ditch along Hawthorne Rd is proposed to be filled in and run through 12” dia pipe, and added the required tree plantings at street frontages on the east side along Hawthorne Rd. The first option plan proposes an additional one-way approach entering to the site to allow and entry canopy drop-off. The second option omits the additional approach.

6. The Hearing Examiner clarified that the site ingress/egress access off Kammi Dr does not align with Wright Ave due to an existing fire hydrant preventing the alignment.

7. Refer to Staff Report of CUP#19-799 Findings for description of request, Staff proposed Conditions, site plan, photos and applicants written narrative.

8. The applicant was asked to entertain discussions with the adjacent property owner regarding continuation of and shared use of storm water storage in the north drainage swale.

9. Additional discussions of discovery relative to letter from Tim Alston:
   The main issue of Mr. Alston had to do with stormwater from the west side of Hawthorne Rd which has always entered his property through the driveway curb cuts and subsequently been diverted across his property to flow across the surface and piped into the drainage swale on the subject property. A determination as to which city entity is responsible for stormwater off Hawthorne Rd for Mr. Alston to open dialog for remedy was investigated and findings were reported by City Engineer, Merrill Quayle. His findings resulted in determining the default to several annexation actions is that the R.O.W. boundary occurs at the Section line occurring in the center of the road; therefore, the west side of Hawthorne Rd is in the City of Pocatello. Thus Mr. Alston should be communicating with the City of Pocatello regarding any relief of street stormwater entering his property.

III. CONCLUSION AND CONDITIONS

Based on review and analysis of the application material, subject site and surrounding area, applicable Municipal Code sections and goals of the City’s Comprehensive Plan, your Hearing Examiner has determined that this proposal does meet the standards for a Conditional Use Permit with the stated Conditions. Therefore your Hearing Examiner respectfully determines that the requested Conditional Use is Approved. The following terms and conditions derived from City Staff Report are required: (bold text, if any, indicates hearing examiner modifications to City Staff 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.
6. The applicant shall conduct the due diligence regarding working with the homeowner’s association and water district in relation to the canal (ditch). The canal will need to be encased if it affects the stability of the sidewalk.

7. The applicant will be required by City Code to install a sidewalk along Hawthorne Rd.

8. The applicant may be required by City Code to shift the location of the dumpster enclosure out of the easements by filling in the west end of the drainage swale as needed to accommodate the enclosure.

MUNICIPAL CODE PROVISIONS

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 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 this 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.

IV. APPLICANT NOTICE:

Notice is hereby given that this 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 pursuant to Idaho Code Section 67-8003 within 28 days after this Decision.

RESPECTFULLY SUBMITTED this 29th day of April, 2019.

[Signature]
R. Keeven Shropshire
Hearing Examiner

STATE OF IDAHO )

ss:

County of Bannock )

On this 29th day of April, 2019, before me, the undersigned, a Notary Public in and for the State, personally appeared R. Keeven Shropshire, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly sworn, acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello
My commission expires: 11/28/2025