

**PLANNING COMMISSION
MINUTES
JULY 9, 2024
LOWER LEVEL – LIBRARY COMMUNITY ROOM
702 E. FRONT AVENUE**

COMMISSIONERS PRESENT:

Tom Messina, Chairman
Jon Ingalls, Vice-Chair
Lynn Fleming
Sarah McCracken
Phil Ward
Petter Luttrupp

STAFF MEMBERS PRESENT:

Hilary Patterson, Community Planning Director
Sean Holm, Senior Planner
Randy Adams, City Attorney
Tami Stroud, Associate Planner
Mike Behary, Associate Planner
Chris Bosley, City Engineer
Traci Clark, Administrative Assistant

Commissioners Absent:

Mark Coppess

CALL TO ORDER:

The meeting was called to order by Chairman Messina at 5:30 p.m.

APPROVAL OF MINUTES:

Motion by Commissioner Ward, seconded by Commissioner Fleming, to approve the minutes of the Planning Commission meeting on June 11, 2024. Motion approved.

PUBLIC COMMENTS:

None.

STAFF COMMENTS:

Hilary Patterson, Community Planning Director, provided the following comments:

- At the August 13 P&Z hearing there will be one annexation request, the Coeur d'Alene Hockey Academy is requesting an annexation of the property South of the Fronter Ice Arena.
- There will also be a discussion and asking for Planning Commission recommendation on priority pedestrian corridors. This is recommended by the Pedestrian Bicycle Committee as well as the Parks and Recreation Commission. We need to identify priority locations for sidewalks and not waiving the requirement for sidewalks. It would also allow the opportunity to seek grant funding.
- There might be an additional hearing depending if that moves forward or not.

Commissioner Fleming asked if staff has heard anything on short term rentals.

Ms. Patterson replied no, there has been legislation this past session that did not go anywhere. It sounds like there will be some legislation coming back around this upcoming session. The city has been monitoring to see what transpires.

COMMISSION COMMENTS:

None.

PUBLIC HEARINGS: *ITEMS BELOW ARE CONSIDERED TO BE ACTION ITEMS.**

1. Applicant: Todd Kaufman (*Continued from April 9, 2024*)
Location: 2810 N. 17th Street
Request: A Proposed 9-Lot Subdivision
QUASI-JUDICIAL, (S-1-24)

Presented by Mike Behary, Associate Planner

Mr. Behary, Associate Planner, provided the following statements:

- The applicant is requesting approval of a 9-lot and 1-tract preliminary plat to be known as “Kaufman Estates.”
- The subject property is primarily vacant with one existing storage building located on it. The property is gently sloping. Access to the site will be from 17th Street. The proposed subdivision will include a public street with a cul-de-sac that has sidewalks on both sides. There is also a tract that will allow for access to three lots at the eastern part of the subdivision. The applicant is not requesting any deviations from the subdivision code. The property is zoned R-12, which allows for single family and duplex housing types. The applicant is proposing four single family size lots and five duplex sized lots within this subdivision. The proposed subdivision will allow for nine single family homes or a combination of four single-family homes and duplexes to be built within this subdivision.
- There are four findings in the subdivision B1-B4:

Finding B1: That all of the general preliminary plat requirements (have) (have not) been met as attested to by the City Engineer.

- The preliminary plat has been revised since the hearing on April 9, 2024.
- The Preliminary plat being brought forward to the Planning and Zoning commission for this continued hearing reflects changes made to the design based on staff feedback to ensure compliance with code requirements.
- Per Chris Bosley, City Engineer, the preliminary plat submitted contains all of the general preliminary plat elements required by the Municipal Code.

Finding B2: That the provisions for sidewalks, streets, alleys, rights-of-way, easements, street lighting, fire protection, planting, drainage, pedestrian and bicycle facilities, and utilities (are) (are not) adequate.

- The proposed roadway will be 28 feet wide, allowing for parking on the side of the street.

- The existing gravel 17th Street will be paved full width from Stiner Ave to Gilber Ave to accommodate the increase in traffic.
- The new public roadway within this subdivision will have five-foot wide sidewalks on both sides of the street that will continue around the cul-de-sac.
- The revised preliminary plat provides an appropriate design for city crews to remove snow.
- City staff from Streets and Engineering, Water, Wastewater, Fire, and Police have reviewed the application request in regards to sidewalks, streets, alleys, rights-of way, easements, utilities, street lighting, fire protection, planning, drainage, pedestrian, and bicycle facilities.
- All departments have indicated that facilities and utilities are adequate.

Finding B3: That the proposed preliminary plat (does) (does not) comply with all of the subdivision design standards (contained in chapter 16.15) and all of the subdivision improvement standards (contained in chapter 16.40) requirements.

- Per engineering review, for the purposes of the preliminary plans, both subdivision design standards and improvement standards have been vetted for compliance.
- The applicant has provided a narrative with explanations regarding how each subdivision design standard and improvement standard has been met or will be met in the subdivision construction plans. The City Engineer has reviewed the applicant's analysis regarding meeting subdivision standards and concurs with the findings.

Finding B4: The lots proposed in the preliminary plat (do) (do not) meet the requirements of the applicable zoning district.

- The existing zoning is R-12, which allows a single family and duplex housing types at a density of 12 units per acre. The proposed subdivision has a density of 9.5 units per acre.
 - Setbacks and building height of future buildings are tied to the R-12 requirements.
 - The proposed subdivision is in conformance with the R-12 Zoning District.
- Mr. Behary shared the 20 proposed condition for the requested Subdivision:
 1. An unobstructed City approved "all-weather" access shall be required over all City sewers.
 2. All City sewer plans require IDEQ or QLPE Approval prior to construction.
 3. City Sewer Policy #716 requires all legal parcels within the City to connect and discharge into the public sewer through one (1) sewer connection.
 4. Must maintain 10-foot separation between city sewer and city water mains.
 5. City sewer shall comply with the to-and-through and installed to all City specifications and standards.
 6. Cap any unused sewer laterals at the city sewer main in 17th Street.
 7. Install the sewer services for lots 7,8 and 9 into the manhole in the cul-de-sac.
 8. The installation of any required water main extensions, additional fire hydrants and new services will be the responsibility of the owner/developer at their sole expense.
 9. A minimum 20' public utility easement for any water main extension onto private property including fire hydrants is required.
 10. No permanent structures such as building foundations are allowed within the public utility

- easement.
11. Capitalization fees will be due for domestic, irrigation and/or fire services at the time of building permits.
 12. A 20' wide utility easement for water in Tract A will be required to the eastern most portion of the development to extend the water main if future development occurred to the east.
 13. If it is determined that fire flow cannot be met, the developer will be responsible for upsizing the water mains in the area to meet the fire flow requirements.
 14. A fire hydrant at/near 17th Street will be required.
 15. A fire hydrant is needed every 250' and/or at the entrance of the driveway serving the 2-3 houses as proposed.
 16. 17th Street must be paved curb to curb from Stiner Avenue to Gilbert Avenue meeting City standards of 2" of asphalt over 6" of base.
 17. No Parking signs must be installed along one side of the proposed Stiner Ave and along both sides of 17th Street, meeting City standards.
 18. Stop Signs must be installed on 17th Street, northbound and southbound, at Gilbert Avenue.
 19. Stop Signs must be installed on Stiner Avenue, eastbound and westbound, at 17th Street.
 20. The required sidewalk along the 17th Street frontage must be within public right-of-way or in a dedicated easement.

Mr. Behary noted the action alternatives this evening. The Planning and Zoning Commission must consider the request and make findings to approve, approve with conditions, deny, or deny without prejudice.

Mr. Behary, concluded his presentation.

Commissioner Ingalls commented that the commission has seen this project a couple times before. This is not a PUD. A PUD has a different set of findings, correct?

Mr. Behary replied yes, that is correct it had seven different findings.

Commissioner Ingalls stated some of those do not pertain here because one would have been about an HOA, and now that would go away.

Mr. Behary replied that his correct. The findings such as HOA and comprehensive plan do not apply to a subdivision request.

Commissioner Ingalls stated the comprehensive plan goes away. There is a finding that talks about compatibility with the adjacent area with a PUD. That finding disappears with a subdivision. As he studies all the findings, and for the benefit for everyone on the room, he would like the help of Mr. Behary to help explain why it is that the compatibility finding goes away? The comp plan goes away. This project is swinging towards the development by right. We have had some of the discussions. In this case, as a straight subdivision, versus the more collaborative or give-and-take in a PUD, if it comes in and everything meets these things it's assumed to be compatible, is that correct?

Mr. Behary replied that is correct. If the surrounding zoning is R-12 that allows for single family and duplex housing on all of the other lots surrounding this, the R-12 lot they would just have to meet the subdivision requirements in order to divide the land to allow for the uses allowed in the R-12.

Commissioner Ingalls replied in a straight up subdivision at this point and for that matter the PUD never

was requested more density that was allowed but as we stand here today, this proposal clearly is within the R-12 density correct. Mr. Behary replied that is correct.

Chairman Messina asked about the R-12. What is the allowed square footage of each lot that can have either a single-family home or the square footage or lot size of a duplex. Mr. Behary replied that a single-family home you need 50 feet of frontage and 5,500 square feet, and for duplex housing lots you need 7,000 square foot of area and 50 feet of frontage.

Chairman Messina stated according to what we have in the packet in the preliminary plat, it gives us the layout, it gave the square footages. From his calculation, four houses can be built on the lots that are under the 7,000 square foot requirement, and five duplexes can be built on the lots that are over 7,000 square feet.

Mr. Behary replied that is correct.

Commissioner Fleming stated the single family can also have a ADU on the same 5,500 square foot. Duplexes cannot, but the single family's can. Is that correct.

Mr. Behary replied that is correct.

Chairman Messina opened the public hearing and swore in the applicant and the public as a group.

Public testimony open:

Jeramie Terzulli, the applicant's representative, introduced himself. He stated the first time he came before the commission it was with a PUD and it was a little too dense. He recognized that after a meeting with the adjacent property owners. They scaled back to 18 twin homes in an attempt to offer housing options for the community that could be purchased and owned fee-simple and help alleviate some of those becoming rentals. This was denied and it was appealed to the City Council. The applicant team was in agreement with the work with Kiki Miller's group and the Panhandle Affordable Housing Alliance and a few of the other groups to try to put some guardrails in place to ensure that they would be owned by Kootenai County residents. The City Council upheld the Planning and Zoning Commissions decision. He then looked at the code that would allow a by-right standard subdivision, and that is a Quasi-Judicial-process. There are four standards of approval for a subdivision. If the four standards of approval have been met, then the approval is deemed prudent. The last hearing on a preliminary plat in April there was a disagreement on interpretation of the code. He did design the initial subdivision with the understanding that the future connectivity to the east would be greater than zero. With that design, he left a road terminus at Stiner Avenue with an approved fire truck turnaround or hammer head, but it was deemed that this should be designed as a permanent dead end, which is unfortunate because in the meantime a property owner that owns several pieces of property to the east in the county island has reached out to us and wants to get annexed into the City. He is unsure where the infrastructure is on Nettleton Gulch. Of course, there would have been a couple of parcels between he and Mr. Kaufman's property but that is why he did design that as future connectivity in accordance with Section 1615.030 of City Code that talks about continuation of street and path networks. He had had a couple of heated discussions with city staff regarding his interpretations, their interpretation and he did agree sort of begrudgingly that he will put the cul-de-sac in there. In addition, he widened the road to 28 feet, which will allow parking on one side of the street. One of the conditions of approval is that through design he will need to create an easement along the driveway tract through to the east for continuation of city infrastructure. He wants to make one last ditch effort to say that he has a previous design in front of you that he thinks is actually favorable if the street network is going to continue through to the east but that is your decision to make. The water district did say that he does need an easement so that he can continue the water and potentially sewer pipe along the driveway tract if needed in the future. This rendering has been thoroughly vetted by city staff from fire, police, engineer has gone over this, so he does not miss anything thing this time

around. He believes that the approval criteria 1-4 that this proposal meets. The City Engineer has commented and Mr. Terzulli was asked to fill out two pamphlets explaining how he thinks it does, and Mr. Bosley did concur.

Commissioner Fleming asked if there are any concerns with the 20 conditions from the City.

Mr. Terzulli stated he does not. The continuation with the water line lends merit to the interpretation to the old design as to the cul-de-sac. He does not have an issue with reserving that easement. He would like the commission to consider that the previous iteration was probably more favorable.

Commissioner Fleming commented that Mr. Terzulli is treating the last three lots as if they are a private driveway.

Mr. Terzulli replied that is correct.

Commissioner Luttrupp asked if the applicant if they are hand-in-hand with city staff on this proposal and if you both find this a good solution. Are you in an agreement?

Mr. Terzulli stated he does not understand the question.

Commissioner Luttrupp again asked if you and the city are in a unified position on this.

Mr. Terzulli replied his position is that he presented a design and the city staff has vetted it for compliance.

Commissioner Ingalls asked about the PUD it was proposed 18 dwelling units. Even at 18 it was within the R-12.

Mr. Terzulli stated the housing design is not allowed. The twin home design is not allowed in the R-12. That was the sticking point.

Commissioner Ingalls stated the current plan has 9 lots.

Mr. Terzulli stated yes, the current plan has 9 lots and that is up to Mr. Kaufman and how he decides how to build on those lots.

Chairman Messina states there are 14 units according to his count. There will be 4 homes and the remaining will be duplex.

Mr. Terzulli stated unless Mr. Kaufman decides to put ADU's with the single-family homes, there could be 18 total.

Commissioner Ward stated when the hearing took place a couple of months ago there was some concerns about the private roadway, parking, sidewalks, etc. This all seems to be addressed now. What he does not understand now is the cul-de-sac. Where would he bring it all the way through, as to what we are being shown here.

Mr. Terzulli replied he would just eliminate the cul-de-sac and continue the public right-of-way near the eastern property boundary and replace it with the hammer head - the approved fire truck turn around per the old iteration.

Commissioner Ward asked, and you would have room to do that going through those last two lots?

Mr. Terzulli replied that was what was proposed that last time around. The lot count has not changed.

Chairman Messina stated that would only change the size of the those two lots at the eastern side.

Mr. Terzulli replied we had to jockey things around to make room for the cul-de-sac. There was some line work done.

Chairman Messina stated if the street continues at the end, if the homes are built there or not, or would this be prior to homes being built or what was the discussion with the city on that?

Mr. Terzulli stated the city required the easement on that private drive way tract. It was not going to be a wide enough tract to ever become a public right-of-way. City Codes prohibit a private driveway tract to be used for hop scotching from one public right-of-way to the next. It would only be available to put in water and sewer if needed in the future. It will not continue the street network.

Tom Hungerford introduced himself. He stated that one of the issues with the new Kaufman project is that the intersection of Stiner and 17th Street and the cul-de-sac location, the tract A (the private road at the northeast corner road) and the 28-foot road with the parking only on one side, the offset of center line on the current Stiner to the new Stiner on a 17-foot road. He noted that 17th Street is a 20-foot-wide road. There is no way to widen it or put sidewalks in. There are 25 to 40 cars going to be added to this 20-foot road. It also has two blind spots right at the intersection as well. The homeowners in tract A on the new Plat map will be responsible for snow removal and the garbage. All deliveries and emergency vehicles will all have to back out of that private road. This development falls short of what he believes that the subdivision standards should be.

Rick Rainbolt introduced himself. He stated his property abuts the eastern boundary of Kaufman Estates. There is an issue with the property line between the two properties. He claims there is 25 feet in the jog in the northeast corner when he really only has 12.5 feet. This is based on how they vacated 19th Street. It was vacated down the middle of the street. He only had 12.5 feet coming into that jog. On paper now, it has been addressed because Mr. Kaufman is showing a 12.5-foot jog in that corner. But the reality is his property has been surveyed. He went to his property line and he measured over to the survey stake. It is 10.5 feet. If he is going to go 12.5 feet from his stake, Mr. Kaufman will be 2 feet on his property. If the city is going to approve what is proposing, are you going to approve him to take 2 feet of my property? He said he will fight this if someone is going to try to take his 2 feet of property. Will he deal with the city or Mr. Kaufman?

Mr. Adams, City Attorney, stated that the approval of a subdivision is not going to change the property lines. That will become a matter between Mr. Kaufman and Mr. Rainbolt regarding where the property lines are. When Mr. Kaufman begins to develop, he will have to do surveys.

Commissioner Fleming stated that the approval of the commission does not define boundary lines.

Mr. Rainbolt stated that he thinks that a boundary line dispute should be settled before this gets approved. You are basing this decision tonight because you think he has 200 square feet to do this subdivision.

Chairman Messina stated no, we are not approving who owns what piece of property. We are approving a number of units and what he is applying for. It's not the property lines. If there is an issue between two property owners that are adjacent to each other that are having issues you two need to figure it out.

Mr. Adams stated the commission is not approving units either, the commission is approving lots.

Mr. Rainbolt interjected and said you don't care where those lots are then.

Mr. Adams stated no, as long as they are legal lots.

Mr. Rainbolt stated well they are in the County, because his property is in the County. It seems like the subdivision in the city should stay in the city.

Mr. Adams replied that the city is making a determination of subdivision. If there is a dispute about a property line, that is between the two of you.

Chairman Messina stated he will need to contact a survey company and have your property surveyed.

Mr. Rainbolt stated he already has.

Chairman Messina replied then he needs to present that to Mr. Kaufman and you guys can work out the details of that. We are not doing anything with property lines or taking anyone's property.

Mr. Rainbolt stated if nothing else, he wanted the commissioners to be aware of it.

Mike Buzga introduced himself. He is opposed. He stated this proposal does not meet the aspect of the neighborhood. The commission has heard a number of the neighbors. There is a certain flavor and feel to the neighborhood and it is why people live there. He bought there because it has a certain feel. It is close to the downtown yet far enough out and it is somewhat rural. He understands from Mr. Kaufman's standpoint that he is trying to make money. He initially pitched that the housing units would be more affordable. He said Mr. Kaufman's comments at the last meeting indicated that he was not interested in affordable housing. Instead, he was interested in building as many houses as possible. That is what this looks like tonight. When the representative came up tonight, they are still trying to propose let's just kick that road right on through so we can continue to develop more and more. He questioned if that is the direction we really want to go. The city is expanding, but is it expanding just to turn into something that nobody wants to live here. Legally you have to follow the codes. But he hopes the commission looks at it and says, "if I lived there, what would I want?" He does not know if Mr. Kaufman lives in the area and the neighborhood has made it very clear that that do not oppose growth, but they want managed growth that continues to represent the area that they bought.

Shannon Sardell introduced herself. She stated she is opposed to this subdivision request. She is a direct neighbor of this site. Her two main concerns are the width of the road (a 28-foot road versus a 35-foot road). This is a primary frontage road. It could be a frontage road with up to 14 residences. It does not have the feel or the look of a secondary road. She stated that there needs to be parking for guests. The other issue is with Tract A, which is the development of the private road. Even though it is 150 feet, this secondary street will probably have gravel and be privately maintained. She asked who will mandate that? She would like to see the cul-de-sac extended further east to be accessible directly to the city street that is maintained, then have some kind of private road that we are hand shaking with neighbors or rentals about how the snow will be removed. Where it will go? More than likely, it will end up against my shop. She would like to have backyards sharing spaces with other homes' backyards instead of abutting front yard spaces and a road. She is concerned about security which would include additional street lighting. Backyards don't need that lighting. She is not opposed to development; she just wants a safe environment for the kids and for Mr. Kaufman to follow city infrastructure standards.

Amber Hicks introduced herself. She said she is opposed. She wants to thank Mr. Kaufman's team for making the proposed changes. She is still concerned about the safety concerns regarding the kids with the 28-foot-wide street with one row of parking instead of parking on both sides. Not only is it not compatible with the surrounding streets as you can see on Gilbert, Haycraft and Nettleton surrounding it where we allow for parking on both sides. We already have a parking shortage and now parking won't be allowed on 17th Street when this development goes in. These neighbors will have to park elsewhere. By only having a single lane row of parking on the new road, she thinks this is doing the neighborhood a disservice. There are no sidewalks on Haycraft, Gilbert, or 17th, and there are "wall to wall" cars on Stiner. For the kids, pedestrians and cyclist that frequent the neighborhood and access Nettleton Gulch and Canfield, they are not able to safely navigate. The more cars we pack on our streets because they don't fit in the new subdivision then the more blind spots there are for our children. There are a lot of blind spots. There are a lot of uncontrolled intersections.

Megan Johns introduced herself, she stated this is moving in the right direction. She does not think there will be future connectivity from the neighbors on the east. She would like to know about the ADU's that could be added. Would this be reflected in the plan tonight or would this be something done later part in the process.

Mr. Patterson replied ADU's are allowed by right with the current code. This is a 9-lot subdivision with a

private tract for a driveway. It does not have anything to do with where the houses are, what type of houses, or the ADU's.

Al Mesbah introduced himself. He stated as proposed every single street that enters that intersection is a different size. It is offset. This is a dangerous intersection. The problem with the landowner whose land that Mr. Kaufman is potentially cutting into and if the commission approves this and they lose the 200 square feet. The lot size is not going to be the right size. The road is a secondary road, but it should be a primary road. That is not required because a primary road is what the driveway's open into. That is the definition of the City Code. We the neighbors have tried to meet and lower the density and Mr. Kaufman is trying to do as many units as possible. The problem is this neighborhood has many issues with that. The road cannot handle it. The parking will be a problem.

Chris Bosley, City Engineer, clarified the primary versus secondary roadway definitions. He said he spoke with the City Attorney regarding the road. He felt that it was a primary frontage road by definition, but the city attorney explained the way the code is written and maybe the intent was it was supposed to be a primary frontage. A primary road is only in the definitions and not the roadway standards. He never said it was a secondary street. He said it does not fit any of those definitions of streets in there. He believes they could have gone to a narrower road under this circumstance but the City suggested they did need a wider road to fit parking on one side or that are not going to get very far with this project, because they have a parking problem in the neighborhood. At 28 feet, that is the minimum street width for parking on one side. Thirty-two feet would allow for parking on both sides. They went with the 28 feet.

Commissioner McCracken asked about one of the conditions, to pave 17th Street. The staff report says "to full width." What width will it be paved to?

Mr. Bosely replied it will be curb to curb. The city looked at widening the road but the setbacks on the houses don't allow it. If we were to push the road wider and put in a sidewalk, people would lose their driveways. It would make the parking problem even worse. They can't fix the road widths that are out there. 17th Street north of Stiner is an issue; it is narrow. There is nothing that this applicant could do to fix it. They would have to condemn property. The alignment issue of the road is not ideal. He has made notes to contact the urban forester about some tree pruning to open visibility and there will be requirements from stop signs on Stiner for both directions coming up to 17th Street. That will not be an uncontrolled intersection. Offset intersections like this are not ideal, but there are a lot in the city.

Commissioner Ingalls stated stop signs will help the neighborhood. He asked if the applicant will be required to put in a stop sign at the new intersection.

Mr. Bosely replied yes.

Tammi Rosenthal introduced herself. She stated she lives right next door to this project. She feels this is natural land use. It makes sense to her to incorporate the natural environment into all development decisions. She is concerned about the new lighting that will be required along the new public street as part of the subdivision improvements. The negative impact of artificial street lights and exterior lighting built on homes and duplex lighting her backyard that would otherwise be dark. Street trees will be required along the public street and the swales will need to be vegetated. Shade trees have been proven to cool neighborhoods, reduce ground level noise and garbage trucks picking up trash. A privacy fence around the property line would help wildlife adapt to the construction noise and disruption of the habitat. If this is approved, please add these small conditions the shields on street lights, a 6-foot privacy fence and include shade trees in the landscape design around the subdivision. If the Kaufman Estates is the real deal and if they stand behind what they have said, affordable housing is needed in the City of Coeur d'Alene. Are they willing to make conditions on their homes they are building? Will the families moving in be offered below market and will they be affordable? Please support the working professionals.

Kyle Holmes introduced himself. He stated the affordable housing came up in the first meeting and has been tossed around tonight. He has not heard them speak about it tonight. It is not really any option in the

community anymore. The neighborhood has done a good job maintaining their composure and speaking with respect regardless of their feeling towards this project. He feels there has been repetitive condescension and flagrant rude comments at every single meeting that the commission has had to endure, and the community have experienced because the development team does not care about the community. The fact they want to put a road all the way through because there is a "greater than zero percent" ability to grow. That may apply in Post Falls where there is open flat farm land. But the comments that were stated at the last meeting were our homes in the neighborhood are nearing their age of usefulness. In other words, they just need to be leveled for the purpose of growth. The sticking point that they meet the four criteria that Mr. Terzulli stated earlier when asked if he and the city were in agreement, he did not say yes. He said we meet the four criteria points. He appreciates the commissions time and effort.

Mark Lazar introduced himself. He stated he lives in Hayden but has a home in Nettleton Gulch. He moved here from Salt Lake City. He appreciates the community feel here. It's a breath of fresh air. He understands the desire to preserve it. There has been talk tonight about low-cost housing, but this does not come from government building projects. It comes from supply and demand and this drives down costs. Watching this meeting tonight, it appears this project meets the zoning requirements. This process drives up cost. If a person has a piece of property that they would like to develop and want to use it as a rental property or to sell to single families, if they are paying for additional engineering costs and design, legal fees that gets built into the price, this will drive up the costs. If Mr. Kaufman is willing to put their own capital on the line and build additional housing, the prices will continue to rise, it becomes less affordable. He has heard several complaints that how dare he make a profit. How many of you are willing to sell your own home for less than the market price? We live in a country that enforces property rights. If a person owns that property, they can dispose of that property as long as it is within the legal limits of the law.

Rhea Giffin introduced herself. She said she spoke at the City Council meeting. She has lived in the neighborhood since 1981. She has seen a lot of changes in the neighborhood. No one is asking for Mr. Kaufman not to make a profit. We are just asking him to be respectful to the neighborhood and he seems determined to ignore that. He has been given the answer "no" several times and he just continues to push beyond what we are asking. It is a reasonable amount of property for that area. We have never asked him not to build, just to be reasonable and respectful.

Applicant Rebuttal:

Mr. Terzulli stated the street has been correctly classified. The minimum standard is 24 feet, curb to curb. There was ongoing dialog with the City Engineer, planning staff and his team to arrive at this design and allow the parking on one side of the street. Regarding the offset nature of Stiner, typically rights- of-way roadway will align with section lines, which will align with property lines from old plats and old irrigated tracts. If the property to the north decided to develop and could get access off of the extension of Stiner, widening that street to 32 feet and moving into their property somewhat is completely doable. It would probably be recommended by the city. The driveway tract is something that we worked out with city staff. It is allowed by code. It cannot serve more than five single-family residences. The one lot at the end of the cul-de-sac will have frontage on the new road. They have not figured out where the driveway will go yet. Through design they will likely have a shared driveway apron off of the tract for the two lots. A paved driveway all the way to the property line will not happen, it's a waste of asphalt.

Chairman Messina asked if the driveway will stop before the end of the property.

Mr. Terzulli said yes. The house has a setback off of the property line and the driveway will be central to the structure, so therefore the driveway will be further back. All of the properties with this R-12 zoning designation have the same property rights as Mr. Kaufman. He is not asking for anything other than to develop the property that he purchased over 2 years ago, within the letter of the code and the law. He took a swing at attainable housing over 2 years ago through the PUD process with a density that would be equal to what would be allowed if the project would be approved tonight. As to attainable housing, that ship has sailed at this point. Mr. Kaufman is \$60,000.00 into design fees so far with no approval as of yet. He did try to make an honest effort. Mr. Terzulli said he feels slightly offended and annoyed that people would come up here and

say if he is a man of his word know he will build attainable housing after he was raked over the coals for 2.5 years. Sorry if that comes off as condescending, but he is in too deep with fees. He would like to make a modest profit on this.

Chairman Messina stated this is an R-12 zone area. There are certain square footage of homes size and land on each lot that you can do duplex and you are following the rule in this application.

Mr. Terzulli states that they did give back the 12.5 feet that the surveyor assumed it was a 50-foot right-of-way and that 25 got banded in each direction. Because a 25-foot right-of-way is very rare, he just kind of missed it. He has made that change and figured it out. We have confirmed it by tracing the record of survey back to 17th Street and pulling the dimension back to the east. We are extremely confident he has the lines properly addressed on the preliminary plat. When it comes times for the subdivision approval, as is the standard, he will have to set new monuments and confirm. If there is a discrepancy with the gentleman's survey to the east and our surveyor, he will get that worked out. If he needs to adjust the property line to make sure the homes to the 5,500 square foot minimum, that is doable.

Commissioner Fleming stated there will be 14 dwelling units, each one of those will have a garage with 1 or 2 spaces in it. There will be a driveway to pull up on. How many parking spaces will you have?

Mr. Terzulli stated the road will be 400 feet long. They will not allow parking 30 feet of the stop sign.

Commissioner Fleming states everyone is very concerned about parking, and it sounds like there will be self-contained parking for everyone. There should not be overflow on already crowded streets to the west. There are 14 units and there are 4 parking to each unit.

Mr. Terzulli states that technically Mr. Kaufman does not have to build a garage, but of course he is going to. The standards require a driveway stall be 20 feet from back of lot. By default, that creates a parking stall in front of the garage stall.

Commissioner Fleming stated it sounds like there will be more than adequate parking for this development.

Mr. Terzulli replied yes. Once we have the housing design, there is a 99.9% likelihood that all of the units will have a garage and a driveway stall and would meet the parking requirements without any additional street parking.

Commissioner Fleming stated there are some concerns regarding fencing and lighting. We have a night sky lighting ordinance. This is a consideration for the neighborhood. They want to see the wildlife in their backyards. The more light that is spread on them, the more they disappear.

Mr. Terzulli replied the conditions of approval talk about streetlights. Yes, he would be willing to have that conversation.

Commissioner Fleming asked the development team to not rock the boat and to please fit things into the neighborhood. Do not make it an urban environment in the middle of what is a natural wildlife setting. Do not have huge lamp posts, etc. Just be very respectful.

Ms. Patterson clarified the street lighting standard. She said the City works with Avista with providing the streetlights. They are required to meet the lighting requirements in the residential neighborhood, which is 3000 Kelvin. That is not the bright lights you see on major roadways. Additionally, they do have the ability to put the shields on. Avista can work with homeowners on that after the lighting is installed. She also clarified that they will be required to meet all of the parking requirements. On-street parking doesn't count toward their required parking. This is done through the building permit process.

Commissioner Ward commented that all we are looking at is a plat, we are not looking at the zone. We are reading through the staff report. This is zoned R-12 and this allows up to 12 units per acre both single family

and duplex. The way the lots are laid out they could all be single family or a mix of single family and duplex lots. Since the last meeting the plat has been revised. The street configuration is much superior than what we had before. The alignment and the addition of a stop sign will really will help a lot. In addition, when you read the staff report, and the departments and all of the requirements determined by the city review are being met. Traffic is always in issue, and the developer is paving 17th Street. Lighting is important. The cul-de-sac is a benefit to the people, it precludes automatically extending he development to the east. It will keep the development much more contained. Whether he agrees with everything or not, he cannot deny this. It complies with all of the requirements. He can say he does not like it, but that is not a solution. He cannot object to this project. He will support this.

Public testimony closed.

Commission Discussion:

Commissioner Ingalls stated he agrees with what Commissioner Ward said. The findings are different when this was a PUD. We have seen this project four times now. Some of the comments that he read and the commission has heard, including comments from a gal named Amber said “we are moving in the right direction” and Megan said “it’s better.” They had some concerns. Jessica wrote this, “as long as he is asking for density that fits in the zoning, then we are in agreement. Anything above that, we ask that you deny.” Mr. Behary spoke tonight. If you checked the boxes of the four findings you have to follow the code and the findings have been met. It’s not a matter if he likes the project. There is no basis not to approve this tonight.

Motion by Commissioner McCracken, seconded by Commissioner Ward, to approve item S-1-24. Motion carried.

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner McCracken	Voted	Aye
Commissioner Luttrupp	Voted	Aye
Commissioner Ward	Voted	Aye
Chairman Messina	Voted	Aye
Commissioner Ingalls	Voted	Aye

Motion was approved by a 6 to 0 vote.

2. Applicant: Thomas Hungerford (*Neighborhood Sponsor*)
Location: Nettleton Gulch Road and 17th Street
Request Proposed SUP restricting 16.64-acres to single family designation QUASI-JUDICIAL, (SP-1-24)

Presented by: Sean Holm, Senior Planner

Mr. Holm, Senior Planner, provided the following statements:

- Thomas Hungerford, neighborhood sponsor, is requesting approval of a single family detached only designation in an R-12 zoning district. If approved, the special use permit request would limit future construction to single family detached residential homes and accessory uses, including Accessory Dwelling Units (ADUs), in the subject.

- Mr. Holm provided background information and shared information about prior requests of a similar nature.
- He noted that Special Use Permit applications for a single family detached only designation are a rare occurrence in the city. To date, there has been two (2) requests for this specific action: Pinegrove Park (1994) and Ft. Grounds (2013-14). While both of these requests were ultimately approved, there was a difference in the threshold to qualify. Prior to 2013, city code required the neighborhood sponsor to prove there was both 75% of the subject area as well as 75% of the owners in agreement to sign on as "parties to the request". This changed to 66% for both hurdles, in 2013, when City Council approved ordinance 3474. The minimum requirement for one-and-a-half acres (1.5 ac) as a whole remains the same.
- The applicant, as the neighborhood representative, has noted that the Special Use Permit will preserve the Best/Nettleton Gulch area as a transitional space between the rural undeveloped recreational land of Canfield Mountain and the more densely populated, amenity-rich urban fabric of downtown Coeur d'Alene.
- The Zoning Code defines residential activities and types of structures as detached housing:

One dwelling unit, freestanding and structurally separated from any other dwelling unit or building, except for an accessory building located on a lot or building site which is unoccupied by any other dwelling unit or main building.

Single-family detached housing: One dwelling unit occupied by a "family" as defined in this title, including manufactured structures and designated manufactured homes as defined in this chapter.

- The R-12 zoning district is intended as a residential area that permits a mix of housing types at a density not greater than twelve (12) units per gross acre. In this district a special use permit, as prescribed in chapter 17.09, article III of this title, may be requested by neighborhood sponsor to restrict development for a specific area in single-family detached housing. To constitute neighborhood sponsor, sixty six percent (66%) of the people who own at least sixty six percent (66%) of the property involved must be party to the request. The area of the request must be at least one and one-half (1½) gross acres bounded by streets, alleys, rear lot lines or another recognized boundary. Side lot lines may be used for the boundary only if it is also the rear lot line of the adjacent property.
- All parcels within the subject are currently large enough to qualify for a duplex in R-12.
- There are three required findings for a special use permit, findings B1 through B3:

Finding B1 is if this proposal (is) (is not) in conformance with the Comprehensive Plan. Mr. Holm presented information about the subject property being within the existing city limits.

- The City's Future Land Use Map designates this area as **Compact Neighborhood** place type. He shared the Comprehensive Plan maps for transportation, including the existing and planned bicycle network, walking network, transit network. He also shared the Goals and Objectives that staff found applicable to the request.

Finding B2 is if the design and planning of the site (is) (is not) compatible with the location, setting, and existing uses on adjacent properties.

- Mr. Holm shared details about the properties within the boundaries of the request.

Finding B3 is if the location, design, and size of the proposal are such that the development (will) (will not) be adequately served by existing streets, public facilities and services.

- All of the City departments sent in their comments and there were no issues with any of the departments or city staff in providing facilities or services.

Mr. Holm noted the action alternatives this evening. The Planning and Zoning Commission must consider this special use permit request, which would limit future construction to single family detached residential homes and accessory uses in the subject area, and make appropriate findings to: approve, deny or deny without prejudice.

Mr. Holm, concluded his presentation.

Commissioner McCracken asked about the threshold for this application in light of the last hearing where the subdivision request was approved (Kaufman Estates), and if they would still meet the numbers. Do you add them in at the time of the application or would the subdivision affect that.

Mr. Holm said yes, it is during the application. The 66% hurdle is for property. If you take out the public right-of-way of the new approval, you are at 71%. The ownership percentage goes down to 62.2%. So, they flip flop on the bottom two. The Kaufman Estates plat with the nine lots has not been recorded yet and until that final plat is recorded, those lots do not exist. That is a preliminary plat.

Commissioner McCracken stated the timing of this is interesting. If you take an extra 8 lots to 45 and subtract the 0.84 acres, the first hurdle would be 62.2% and the second one would be 71%. It is right on the cusp of those thresholds. If this is approved today, she is going to ask because of the elephant in the room, when does this go in effect.

Mr. Homs replied there is an appeal period, which is 15 calendar days from the commission's decision to appeal to City Council. It is at the time of building permit that they are actually getting the right to build on the property subject to the code. Planning Commission has approved the 9 lots tonight. If Mr. Hungerford's is approved tonight and it is not appealed and it goes into effect. That would mean that Kaufman Estates would be limited to single family only with an ADU. No duplexes would be allowed.

Commissioner Luttrupp stated this is a matter of timing. So, if we do pass this tonight, this will negate Mr. Kaufman's project that we just passed. There would be no duplexes, just the single-family housing with the ADU's.

Mr. Adams stated the duplexes that are on the properties will stay duplexes unless they burn down or are torn down.

Chairman Messina asked depending how this goes, there is an appeal process that can go forward on either side to City Council and there would be another public hearing.

Commissioner Fleming stated the commission has only done this special use permit twice before. One in the Fort Grounds driven by historic preservation and a lot of people regret it because they cannot subdivide their big lot, they are stuck.

Mr. Holm clarified that any property within the special use permit boundary is large enough for a duplex and could be just large enough to subdivide into two single-family lots through a short plat or long plat. It would not limit their ability to subdivide as long as they still meet the standard of R-12, but they would be limited in their product type to single family detached ADU's.

Commissioner McCracken asked if a PUD application be allowed.

Mr. Holm replied yes it would.

Ms. Patterson stated it would be allowed, but with only single-family detached homes.

Commissioner Luttrupp commented that he has heard many people talk about how they are happy about the single family only designation in the Fort Grounds. If we approve this Special Use permit tonight then the prior Kaufman Estate will be changed.

Mr. Adams replied no, they will have 9 lots. What they can build on them will be different.

Commissioner Luttrupp asked if there is a way that we can say if we approve this one, but allow the Kaufman Estates to build as they want too.

Mr. Adams replied no. If you approve this Special Use Permit, when Kaufman Estates comes in for their building permit, they will only be allowed to build single family dwellings and no duplexes.

Commissioner Ingalls asked can the Commission tonight add a condition that says the Kaufman Estates lots are allowed to put duplex on them.

Mr. Adams replied no, the Special Use Permit under the language of the code is for this whole area. You cannot cut out a portion of the proposed Special Use area.

Mr. Holm stated that as a reminder each one of these lots in this request is large enough to potentially have a duplex.

Commissioner McCracken stated the tricky piece about this is the timing. She is struggling with this. On April 9, the commission heard the one and tabled it for clarification because of the road and in May we heard the other and tabled that one. Now we are hearing both items tonight.

Commissioner Luttrupp stated he believes in local government. We are good at hearing testimony. We take action as we see fit given the circumstances. It gives him great discomfort to think that he can go through two years of this process and approve something tonight and then the same night approve something else that may negate the first one. That does not pass the smell test to him. It changes his view of the transaction 180 degrees. He feels terrible that a certain action cannot be taken in specific for the Kaufman Estates.

Mr. Holm replied that staff did have conversations with both sides of the aisle in this case and did let Mr. Kaufman and Mr. Hungerford know what could potentially happen.

Commissioner Luttrupp stated at the last hearing that the applicant spoke about a takings. If this was passed and if we did this, would we have to go through some kind of takings process?

Mr. Adams stated that a takings analysis can be requested if a Special Use Permit is denied or approved with conditions unacceptable to the applicant, similar to the subdivision. A takings analysis would simply be the city's opinion as to whether a constitutional taking has occurred requiring just compensation. That would still have to go through the legal process if someone desired.

Commissioner Ingalls asked about the comp plan element and facts that you spoke about the neighborhood and the R-12 zoning. He asked staff to clarify other areas of the city with R-12 zoning.

Mr. Holm replied the majority of the city is made up of R-12 zoning.

Commissioner Ingalls stated R-12 is built in this neighborhood and duplexes are allowed by right here and other R-12 areas all over town. The graphic that he is looking at on the screen shows how the people who own a duplex voted for this project.

Commissioner Ward stated he feels like this might create a lot of lawsuits right now, and not just between Kaufman. There are 37 people who, if this is approved, assumed zoning control over 16 acres of land. What if over 5 or 10 years of the community changing people, new owners want to sell these parcels,

they are bound by a single-family home. There is no way they can come in and file a modification. Someone will have to now go back and get 66% of the signatures to agree to change to whole thing again. He is concerned about this. There is also a concern about a short plat. There are 37 parcels or more here that could be acted on if approved for single-family homes. What would be involved for a short plat parcel in the middle of these 6 acres? What kind of review do they get?

Mr. Holm replied it is an administrative process that is done in-house. Mr. Grant in Engineering reviews for the City. He acts as the hearing examiner. He accepts the application. There is a notice. It is less than the 300-foot length, he does get feedback from the neighbors within and around 100 feet and then he approaches each of the departments (when we have our weekly DRT meeting) for feedback and puts together his analysis and either approves or denies it.

Commissioner Ward stated on the plat that we just reviewed which is a standard plat, it was reviewed by all the departments. From that plat, we can look at requiring the public utilities in the roadways, public services, etc. Is that process now being short circuited where we can have a situation with a number of single-family homes but not a whole lot of connectivity for roadways or even utilities?

Mr. Holm replied it depends if the street system has been designed and built upon. In the area some of the streets have been vacated. They are not full street widths and have dead ends. He does not foresee an 18th Street being built in the neighborhood.

Chairman Messina opened the public hearing and swore in the applicant and the public as a group.

Public testimony open.

Tom Hungerford introduced himself. He stated he would like to thank Mr. Holm for doing an amazing job on his presentation. He would like to address how the timing of all this happened. It was never the intention for these two items to be competing on the same night. Mr. Kaufman put his proposal into the city back in January. His project started in February and the computer then went down at the city and pushed things back. Mr. Kaufman's project would have always been in front of his. This is a great neighborhood with some very old residents and it represents an old part of Coeur d'Alene. They do not have an HOA. We just have common respect for each other. He did this to try and protect what they have because of the large lots. They are desirable lots for developers. This is a way that they saw to protect the neighborhood. This neighborhood has always shown up at the hearings and been respectful. This is unfortunate that both of these projects have happened tonight.

Commissioner Luttrupp asked could the neighborhood still be protected if this property was excluded.

Mr. Hungerford replied yes. Because the developers are after high density. If the other 36 homeowners were part of this, it would address what we are concerned with. There are large lots and the potential of these lots being divided in the future. He is trying to keep it single family homes. He is trying to limit the growth.

Commissioner McCracken stated she appreciates all of the neighbors coming and speaking to the commission. She would like to know how he came up with the boundaries.

Mr. Hungerford replied it was because of the city streets. It was a nice uniform shape.

Shannon Sardell, as co-presenter with the applicant, introduced herself. She stated that they do have the ability with some of the large properties to subdivide them into additional single-family homes with ADU's. It still does provide density. Smaller homes and ADU's are a fantastic resource and provide a variety of housing types within the same neighborhood. They can provide young people with an opportunity to build credit. This can provide rental income from for their primary resident in their homes. She likes the single-family homes because they are smaller square footage and they provide different housing. We are renters and owners, and some of our houses are multi-generational families living together. This

neighborhood is a gateway to outdoor recreation opportunity on public lands. There is forest land on the edge and hiking on Canfield Mountain. The neighborhood is one of structural transition between the urban core of Coeur d'Alene and the rural amenities beyond it. This neighborhood was established in the 50's and 60's and is on the edge of a rural community of the city. The roads do not conform to the 2024 designs standards and the landscape is mature. The single-family homes with ADU's will not put undue stress on the infrastructure or services. Nettleton Gulch Road is a shared roadway with the bicycle network despite its current heavy use with cars, trucks, trailers and service vehicles heading up to the mountain. Other roadways within this neighborhood do not meet this standard and there are very few sidewalks. The overlay proposal will allow for modest population increases but will not create additional traffic or safety concerns between them. This neighborhood is a significant gateway to the closest rural outdoor mountain experiences on USDA Forest Service Lands for the city. This forest land and the parking area have multiple trailheads that are advertised in tourist information, outdoor guides and searchable trail enthusiasts including GPS. We feel that the Special Use Permit will preserve the existing neighborhood identity, ensure a high quality of life for its residents, and provide a safe and efficient bike and walking mountain area for its residents.

Chairman Messina asked about the designated single family with ADU units available. Can each one of these parcels, as they are now, put an ADU unit on their property now.

Ms. Patterson replied yes, as long as they have a single family, they can have an ADU. But duplex lots cannot have an ADU.

Chairman Messina stated by his calculation they can build at least 30 ADU's. His question to Mr. Hungerford is that every family that wants to build a ADU that lives in a single-family home will bring more traffic, people and parking.

Mr. Hungerford stated he did speak with the neighbors regarding the ADU's. They did like the fact they could have that option for mother-in-law homes and maybe even rentals. The difference is if a developer coming in buying the larger lots and then putting in 5 or 6 duplexes.

Chairman Messina asked Ms. Patterson if this is designated single family only with ADU's and someone wanted to come in wanting to build some duplexes, would they have to come before us?

Ms. Patterson replied that is what Commissioner Ward brought up before. To undo what you have done, the property owners would have to go through the same process. This makes is very challenging to go back and undo what you have approved.

Ms. Sardell explained this is a very fine balance. Sometimes you look at numbers and how many units. The goal here is to preserve the sort of street frontages and modern historic preservation of the existing houses that are on the street frontages. ADU's tend to go behind the homes, so the street frontage so the street character isn't changing. It's different than bulldozing down a house and rebuilding six modern duplex units. When you have lots of rentals in a neighborhood, it does not promote community involvement and awareness.

Edwin Ronningen introduced himself. He lives outside of the boundary on Stiner and has lived there since 1988. He has seen the neighborhood change from single family units with duplexes. He is not against change. Mr. Kaufman's project was just passed with 9 lots and now he can't build what he wants to build. We are asking for single family homes with ADU's. That would be a total of 18. We are asking the whole neighborhood to have the same option. We just want to preserve what is in the neighborhood now. He would like reasonable housing in the neighborhood.

Susan Weeks introduced herself, she is legal counsel for Mr. Kaufman. She said she has some legal concerns regarding the special use permit. Zoning refers to local laws that govern how real property can and cannot be used in certain geographical area. The City of Coeur d'Alene uses a use-based zoning district and it sets forth allowable uses within a zone. Courts recognize that as a right under the law. As a matter of law,

you have a right to use a piece of property in a zoning district as allowed under that. Now there are some uses that are allowed that are special uses and a special use are only be done with a permit. Idaho Code sections 676503 and 6509 required the city to adopt a comprehensive plan and Idaho Code 676511 required you to set zoning districts with uses that were permitted as a matter of law. In a R-12 zone, a duplex is a permitted use as a matter of law. I.C. Section 676512 is a process to have special use permits. The special use permits are for special uses, but City Code 17.05.170 restricts development for a specific area. That is not a use. What use are these people asking to make on the property. On top of that not being a use, it violates what Idaho Code Local Land Use Planning Act allows the city to do under a special use permit. Commissioner McCracken is astute enough to understand it does not pass the sniff test. With this type of special use permit, we are looking at a method to have a permitted use and then have neighbors come in and impose a restriction on an allowed use. This does not follow the law. She states if the commission goes forward with this, the commission will find themselves facing with a declaratory action, and not just an appeal of the zoning decision but in district court. She believes the courts would find that that this ordinance allows a special use permit that a restrict uses a violation of the Local Land Use Planning Act and that it constitutes a regulatory takings because it disallows a permitted use of the land, violates due process of law, and violates equal protection under the law. She is asking that the commission to deny this request

Commissioner Luttrupp asked if she was of the same opinion if the Kaufman property was excluded.

Ms. Weeks replied that the commission can set conditions and the commission can exclude the Kaufman Estates duplex lots and if they do not want to accept that condition, they can appeal that condition. But if this truly is a special use permit, you can set reasonable conditions.

Amber Hicks said she is in favor. She is always about preserving the neighborhood of single-family residents. She has rented for many years in the past and she did buy her home for less than market value. Gilbert Street has had many homes torn down and twin homes and townhomes have been converted to airbnb short term vacation rentals. This is not helping the housing crises in our neighborhood.

Megan Johns said she is in favor. She stated the time of this does put the city in a pickle. When she looks at the findings, she does not really see where a lawsuit would come into place. She sees where the findings would be met. The findings allow for more density. We can still divide our large lots into two lots for single-family homes with an ADU, allowing the growth. It matches the zoning to the east with the county AG. It preserves what is there now. She thinks the attorney's words were meant to intimidate.

Todd Kaufman introduced himself. He stated that all this special use permit is doing is discriminating against the building type that they want to do. They aren't changing the density. For ½ acre that you take, you can subdivide that up and put three duplexes on it, which is six units, or that same ½ acre can have four single-family residences with ADU's, which is eight units. This is really having an adverse effect. All this is doing is changing the type of construction whether you want to see duplexes or single-family with an ADU. This will not change traffic. It's actually adding density because everyone one can do two units on a 5,500 square foot lot. If they want to preserve the character, everyone who owns in these 16 acres that wants to do this should not be allowed to subdivide their land and keep their land the same size and put 1 ADU on your piece of land and not ever subdivide.

Mike Buzga is in support. He stated this does change the neighborhood. There is a difference between duplexes and a single home and an ADU. The timing is unforeseen and not to be this way, but what would be lousy from his perspective is for the commission to not to consider what the neighborhood wants and it is very clear that the people who live in the neighborhood want to preserve it through managed growth. You earlier approved 9 lots, but you have heard from the neighborhood and the people would prefer the single-family homes with the ADU's over duplexes. Please consider that over the legal mumbo jumbo, and listen to the people that vote for you and the people that you represent.

Chairman Messina stated we are volunteers; we are appointed by the City Council we are not paid and are not elected; we do get food.

Veronica Hazard introduced herself. She lives on Best Avenue. She feels that there are too many people that have moved into Coeur d'Alene. There are not enough public services to meet the density of people.

Al Mesbah stated the red lots in Mr. Hungerford's presentation were not in the presentation initially because they were duplexes. Many are now on the neighborhood's side. This has been organic growth in this neighborhood. The problem with unaffordable and insane pricing that goes on here is because we are developer centric. There are property rights in the State of Idaho, but what about the property rights of this neighborhood. He said he should have seniority. He has lived here for over 40 years. We keep making rules that are rigged and don't meet the needs of the neighborhood. The public meetings are so you can hear the people. Otherwise, why are we here? We must have a say in the neighborhood.

Tammi Rosenthal states she is opposed to the zone change. Her parents bought and built their house in 1963 when the Beckwith family passed away. Her mom lives next door. The neighborhood is very close and she feels she doesn't need a zone change for them to know how she feels. She would love to have working professionals be her neighbors. Her neighbors know she would never subdivide.

Commissioner Ingalls asked Mr. Rosenthal where she lives and that she keeps referring this as a zone change but really, it's a special use permit. That said, are you in favor or not in favor?

Ms. Rosenthal replied she supports what Mr. Hungerford has done and all of his efforts, but no she does not feel that anyone should tell her what to do with her property.

Rhea Giffin states the neighbors just want to be respected. It would be great if developers would come into neighborhoods and be more respectful, but it seems they are more interested in the greed of their own issue and it destroys the greater good, parking, resale. They just make their profit and move on.

Jim Mackey introduced himself. He said that duplexes tend to be rental units and have a lot of turn over. The design of the neighborhood and where the Kaufman develop will be, is going to be in enclave of turnover of people. It will no longer be neighborly. This will detract from the essence of what the neighborhood is all about. Allowing this addition of Stiner Avenue will add congestion and turn Stiner Avenue into a thoroughfare.

Susan Knutson introduced herself and said she is neutral. She appreciates a tight nit community. She feels bad for the folks on Stiner Avenue. Based on Commissioner McCracken's comment, the timing of this is an anomaly and will complicates matters. Mr. Kaufman has checked all the boxes and Mr. Hungerford checked all of his boxes as well. She loves the ADU idea. As a guardian of a disabled adult, housing with a disability is very hard to come by. Duplexes are not always an option for them. She is curious that the city attorney said you could not make any conditions but Mr. Kaufman's attorney stated that you can. She is curious to hear more about that.

Applicant rebuttal

Tom Hungerford stated he was very clear when he spoke to the neighbors regarding this proposal. The neighbors all knew what they were signing and that ADU's were allowed. There were some people that chose to not be part of this. He did spend a lot of time with folks. Mr. Kaufman stated everyone can build an ADU and subdivide on their property. Yes, we can. So can he. More than likely, we won't. But what he is saying is that if duplexes are allowed, that is what will happen. A developer comes in and buys a large lot and they want to put in a higher density project with more units.

Shannon Sardell stated this is on the cusp of over development. When you get overdeveloped, you get transitory and people tend too not volunteer in their communities.

Public testimony closed.

Commission Discussion:

Jon Ingalls stated that what the attorney Susan Weeks said sticks with him. The special use tool is really to allow a use and not to disallow a use. Perhaps that is not the tool to use to disallow what is allowed by right in an R-12, which is a duplex. We have heard that this a preservation of a neighborhood. It is a R-12 neighborhood. The slide showed single family and duplexes. That is involved in this neighborhood here. Protection of the neighborhood is the protection of R-12, which allows the duplex. There was gentleman that talked about property rights. If I buy a piece of property in an R-12 neighborhood next to a vacant lot, guess what? Somebody might build a duplex next to me. That is a buyer beware that can happen. There is a lot of discussion about traffic and how many people and density. That whole neighborhood can yield the same number of cars, density, people and what not, with or without this special use permit on how many ADU's get built and all of that sort of thing. Ms. Rosenthal was calling this a zone change. Maybe this should be a zone change down the road. He commends the community involvement here, but said this just feels like Ms. Weeks points out. This is the wrong tool.

Commissioner McCracken asked Ms. Patterson about the 1994 and 2013 special use permits for single family detached only and were ADU's allowed at that time?

Ms. Patteson replied yes ADU's would have been allowed with the Fort Grounds special use permit, she doesn't think they would have been allowed with the Pine Grove.

Commissioner McCracken stated she gets that not everyone would develop an ADU at the same time, but when you have a 5,500 square foot lot that can have an ADU, that would equate to 2,750 square foot per unit (house and ADU) of space versus 3,750 square feet that is required for each unit of a duplex. The duplex has more lot size per dwelling unit because ADU's are not allowed with duplexes. Some of the zoning codes and setbacks already account for a little less density when using a duplex. If the there was a 45,000 square foot lot you can get 16 single families with an ADU. You can actually be denser this way. This battles the idea of the special use. She is curious where the timing fit in with the code that allows the ADU's because she feels they are a little lit of a miss match.

Chairman Messina stated he does not remember the discussion about ADU's with the Fort Grounds. It was more about preserving the neighborhood.

Commissioner Ward commented that this neighborhood has been zoned R-12 for a very long time. Growth is coming and sometimes we fight to control it, and not let it overcome us in certain areas. 15th Street continues to draw development. At some point, these 16 acres are going to be subjected to intense pressure. The problem to him is that you have the R-12 zoning. That is a magnet to developers. His question is why would you do a special use. He has concerns about the special use permit versus just rezoning to R-1, Single Family. It serves the same purpose but it is much more secure. Also, this would prevent future lawsuits. This is an important issue. Eight or nine years from now someone buys a piece of property within the 16 acres. How would they that they are restricted to a single-family home? It is not on a zoning map, because it says R-12. We need to be careful.

Commissioner Fleming stated that Mr. Kaufman sort of set off a bomb in the middle of your community. She searched the Idaho Laws and she is not a lawyer but asking the city to support a regulation such as this that limits the owner's ability to develop their land, and therefore reduces property values, is a problem. You are telling all of your neighbors that you cannot do anything with your own property except for single-family dwellings. Now if you all want to get together like co-housing and sign an agreement to never sell to anyone who will develop anything but single-family dwellings, go ahead. You can do that. You can act as a co-housing or an HOA or whatever you want to do. She does not think that the commission should impose something against the duplexes or the ability for people to develop their land. That is why we live in Idaho, so we don't have someone else telling us what we can do with our property rights. We are a property right state. This is overstepping the Idaho boundaries. She is not convinced that this special use permit makes any sense here. Maybe change it to R-1. She feels this is very prejudicial against duplexes beyond belief. There are a lot of really nice people that live in duplexes. She cannot understand how an entire community can be so anti-duplex, anti-townhouse, anti-development. It's sad that it has come to this. She feels that the neighborhood has moved in the wrong direction. She is not for this special use permit.

Commissioner Luttrupp stated the public comment period is very important. The neighborhood has done a great job coming before the commission. The neighbors have been respectful, polite, cohesive. He salutes them. It has hit a very responsive cord with him. He was born and raised here. He moved away and moved back. He was appointed by the City Council and has served on this commission for many years. He does stop and think about what does he feel about his neighborhood. He would agree with this neighborhood tonight. But he has to look at the comp plan and follow that, and go through the criteria. It would not be fair to Mr. Kaufman that we pass his project and then turn around and stop his project.

Commissioner McCracken stated she agrees with her fellow commissioners. She appreciates the neighborhood. They have come and spoken. This is not going to be perfect for everyone. We do want to get it right and make the best decision as a commission. She cannot support this and feels very strong about property rights.

Chairman Messina agrees with his fellow commissioners. If the neighborhood wants to come together and change the zoning, they will have to come back to this commission at some point in time.

Commissioner Ward commented that the neighbors always spoke authoritatively and respectfully. We all want to know our neighbors and be friendly. It's hard to maintain that when the community is growing. He hopes they can maintain a residential character.

Motion by Commissioner Ward, seconded by Commissioner Ingalls, to Deny item SP-1-24. Motion carried.

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner McCracken	Voted	Aye
Commissioner Luttrupp	Voted	Aye
Commissioner Ward	Voted	Aye
Chairman Messina	Voted	Aye
Commissioner Ingalls	Voted	Aye

Motion to deny by a 6 to 0 vote.

3. Applicant: Northwest Boulevard Holding, LLC
Location: 1515 Northwest Boulevard
Request: A request for a Special Use Permit for Food and Beverage On/Off Site Consumption in the LM (Light Manufacturing) zoning district
QUASI-JUDICIAL (SP-3-24)

Presented by: Tami Stroud, Associate Planner

Ms. Stroud, made the following statements:

- The applicant is requesting approval for a special use permit to allow a food and beverage on/off site consumption that will allow a coffee shop/baked good sales in a portion of an existing structure on property located in the LM (Light Manufacturing) Zoning District.
- In August of 1983 the subject property was zoned from C-17 to Light Manufacturing in item ZC-12-83 and was used at that time for warehousing. The site was also previously used for boat sales. In September of 2019, the applicant requested the approval of a special use permit (SP-5-19) to allow a specialty retail sales facility to allow a retail flooring store and professional service

business in an existing structure on the subject property. The special use permit was approved and NW Trends, a retail flooring store, has been operating out of a portion of the building. The applicant would like to expand the commercial uses on the property and lease a portion of the building to be used as a coffee shop to include the sales of baked goods. The proposed use triggers the need for the Food and beverage on/off Site Consumption Special Use Permit in the LM zoning district. It is a use allowed by right in the C-17 zoning district, but not in the LM zoning district. The proposed coffee roasting is a permitted use in the LM zoning district.

- The applicant has indicated that they are not proposing any additions to the existing building at this time and intend to renovate the interior space. The existing building is +/- 12,500 SF. The applicant intends to use approximately 5,000 SF of the floor space for the coffee/bakery/roastery and 7,400 SF for the existing flooring sales and office space. The applicant has submitted a floor plan indicated how the existing building can accommodate the proposed coffee shop, roastery and existing specialty retail sales.
- The Light Manufacturing (LM) district is intended to include manufacturing, warehousing and industry that is conducted indoors with minimal impact on the environment. The applicant's proposed use would be conducted primarily within the existing structure, and the applicant is aware that a possible light manufacturing use may be built in the area, or may occupy an existing structure now or in the future. The proposed office space could be affected by an adjacent light manufacturing use, in which case the city would support the continued operation of any allowed uses by right, in the context of the city's performance standards:
- There are three findings for a special use permit: B1 – B3:

Finding B1: That this proposal (is) (is not) in conformance with the Comprehensive Plan.

- Ms. Stroud shared the Comprehensive Plan Policy Framework, including the goals and objectives that staff has identified as being applicable to this request. She also explained the Place Type and shared the Future Land Use Map and transportation maps.

Finding B2: The design and planning of the site (is) (is not) compatible with the location, setting, and existing uses on adjacent properties.

- There is an existing structure on the subject site that was previously used as a boat sales and dealership facility and is now used for flooring retail store. Located across the street to the north are retail and office uses. The properties to the west have recreational and commercial uses located on them, which consist of public pedestrian and bicycle trail (Centennial Trail) and open spaces areas on land owned by the City of Coeur d'Alene and the Bureau of Land Management, and a commercial storage facility. There are also vacant lots to the west that are zoned C-17. The property to the east of the subject site across Northwest Boulevard is currently used for professional offices. The properties to the south of the subject site have a recreational use and vehicle transportation road facilities use located on them, which consist of public pedestrian trail (Centennial Trail), US 95 entrance ramp, and the US 95 bridge the crosses the Spokane River. (See Land Use Map on page 10)
- The subject site has frontage on Northwest Boulevard, which is an arterial road. The properties to the north and east of the subject site are zoned C-17. The property to the west of the subject site is also zoned C-17 and C-17PUD Commercial.

Finding B3: The location, design, and size of the proposal are such that the development (will) (will not) be adequately served by existing streets, public facilities, and services.

- Ms. Stroud cited staff comments about stormwater and the requirement for a stormwater management plan, the requirement for the street frontage along Northwest Boulevard to meet ADA requirements at the time of construction, expected trip generation and the capacity of Northwest Boulevard to handle the additional traffic, the existing 1" water line and ¾" water meter serving the project, the sewer capacity and existing connection, and the Fire Department requirement to have the retaining wall inspected. She also noted the previous special use permit for the specialty retail sales and the approved parking behind the building, as well as the required condition to screen rooftop equipment.

Ms. Stroud noted the five proposed conditions:

1. The drive aisle through the interior of building must remain clear at all times to access the required parking to the south.
2. Proposed rooftop equipment is required to be concealed. Line of sight to be submitted for staff review as part of the building permit application.
3. Before any use of the parking lots on the west side of the property this retaining wall shall be inspected and repaired if unsound.
4. Any additional main extensions and/or fire hydrants and services will be the responsibility of the developer at their expense. Any additional service will have cap fees due at building permitting.
5. An easement will be required on the south side of the property to connect water mains on NW Boulevard to the Union phase 2 project in the future.

Ms. Stroud noted the action alternatives this evening. The Planning and Zoning Commission may, as a condition of approval, establish reasonable requirements to mitigate any impacts that would adversely affect the surrounding neighborhood. Please be specific, when adding conditions to the motion.

Ms. Stroud, concluded her presentation.

Commissioner Fleming asked if the building should catch on fire, is there a designated fire route for a fire truck?

Ms. Stroud replied no.

Commissioner Fleming asked how does the fire truck get to the southwest corner of the building.

Ms. Stroud replied there is a distance requirement and it must reach it from the Northwest Boulevard.

Commissioner Fleming would also like to know how they think they will access staff and visitors through a roll up door. Will it be with a clicker or a code? She noted that this seems really awkward, especially if you are a non-worker and asking a customer to drive thru the building and randomly park somewhere. It's strange.

Ms. Stroud explained that she did have a conversation with the owner and the tenant, and let them know that it was going to be a condition due to the prior special use permit approval and the need for the additional parking.

Commissioner Fleming stated that Mr. Hurtado might need to just tear down the wall and build a new wall, so there will not be a drive thru for parking. There could be an engine and gasoline that could blow up in the inside of the building.

Chairman Messina asked if the access was not going thru there, would the parking requirement not be met?

Ms. Stroud replied the parking would not be met.

Commissioner McCracken asked if they would have access to the trail.

Ms. Stroud replied no.

Commissioner Ingalls stated he was looking at the site plan. It is a photo that shows boats from a long time ago. He assumes that the parking requirement will be met. How do people circulate around?

Ms. Stroud replied this will be a question for the applicant. She discussed this early on. A car would not be able to use the rear portion to access the parking lot behind the building because the access is too narrow. She had multiple discussions about the parking with the applicant team and let them know what would be required.

Commissioner Ingalls asked the other business is flooring, where would the flooring customer park versus the coffee customer park?

Ms. Stroud replied the applicant will need to answer that question.

Public testimony open.

Armando Hurtado introduced himself and was sworn in. He stated the parking is unique. Access and safety, that is a priority. The approach would be more of an operational thing and it is more of a discussion between North West Trends and Union Coffee on how that is distributed whether it's hours of operation or it's a clicker or magic of some kind. But yes, there needs to be access or maybe it's a division of North West Trends customers in the back and coffee in the front. He is not sure how that will be illustrated or used on a day-to-day basis, but we are hoping operationally that we can work through that.

Commissioner Fleming stated there might some staff parking at the rear of the building.

Commissioner McCracken asked how do the flooring delivers work with forklifts, etc.

Mr. Hurtado replied North West Trends owner can answer that. The Union Coffee deliveries will be delivered in their own delivery trucks and they have small trucks and they fit in a parking stall. All of the production will be done in house. The need for deliveries will be minimal and not on a continual basis.

Commissioner McCracken stated but you are roasting, and will have large deliveries.

Mr. Hurtado replied yes it would, but they would house a lot of the inventory in the facility.

Chairman Messina asked about the access around the back of the building. Ms. Stroud clarified that there is not enough space on the corner.

Mr. Hurtado replied the corner there is not enough space for two-way access, but there is enough space for a vehicle to pass thru. That could be a delivery point.

Ms. Patterson stated that space is only nine feet wide and the code is 12 feet wide for one-way access. That is the challenge.

Commissioner Fleming asked if the flooring store is more of a show room than a distribution center.

Mr. Hurtado replied North West Trends can answer that. The space that Union Coffee is going into has been vacant for a while and being built out. They have been operating with space they currently have for quite a while.

Commissioner Fleming stated it was an interior store at one time. It was always hot in the summer, almost unlivable. She hopes they have improved the air conditioning.

Mr. Hurtado states there are air conditioning units on top of the roof now; hence the need to shield that from the public. That is one of the requirements.

Bud Scott the applicant introduced himself and was sworn in.

Commissioner Fleming asked how are you going to access the big roll up doors and get visitors back there, or will it be staff parking in the back triangle space?

Mr. Scott replied yes, that will be staff parking and there will be a clicker for the rollup door.

Commissioner Fleming asked is this going to be a distribution showroom.

Mr. Scott stated this is just a slab show room. A cub van drives around the back and drops off the slabs. He has his own personnel boat back there; the aerial photo actually makes the space look smaller, but it is quite a large area back there. The Hansen's, who were here earlier, own the property that they have the easement on.

Commissioner Ward asked about putting up about 5 trees along Northwest Boulevard. There is not much that separates the building from the street.

Mr. Scott replied yes, he would support that. The property is not owned by him, but he is on board with it.

Commissioner McCracken asked about the parking requirement of 24 stalls. Has that number increased with the addition of the coffee shop?

Ms. Patterson replied, yes that is the combined parking requirement.

Ms. Stroud replied yes that is correct. Union Coffee has the requirement of 16 and with the other business they have 8. So, 24 total.

Public testimony closed.

Commission Discussion:

None.

Motion by Commissioner Fleming, seconded by Commissioner Luttrupp, to approve item SP-3-24. Motion carried.

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner McCracken	Voted	Aye
Commissioner Luttrupp	Voted	Aye
Commissioner Ward	Voted	Aye
Chairman Messina	Voted	Aye

Motion approved by a 6 to 0 vote.

Commissioner Ward stated that he finds the special use permit to basically put the police power of zoning in the hands of certain citizens seems to be unsanctionable and if it is appropriate and if people agree, he suggests that we ask the staff to removing that from the zoning code. That 66% of the people can decide what to do in the neighborhood. He finds that inconsistent with controlled growth.

Commissioner Ingalls replied he does not know if it's the commission place to even task staff to go do something and bring it back. As a housekeeping thing you are always looking at codes. Every so often you come back with a basket of code change. Maybe this one would be a consideration.

Mr. Adams stated one of the duties of the Planning Commission is to make recommendations regarding appropriate regulations. It would not be a miss if you were to put that on the agenda to discuss it and you can certainly request staff to take that forward to Council.

Commissioner Fleming made a motion to request staff to add an agenda item to look at the Special Use Permit for a neighborhood sponsor of the 66% zoning code change, seconded by Commissioner McCracken. Motion Carried.

ADJOURNMENT:

Motion by Commissioner McCracken, seconded by Commissioner Fleming, to adjourn. Motion carried.

The meeting was adjourned at 9:52 p.m.

Prepared by Traci Clark, Administrative Assistant