



**NOTICE OF AGENDA**  
**TWIN FALLS CITY PLANNING & ZONING COMMISSION**  
**DECEMBER 8, 2015**  
City Council Chambers  
305 3<sup>rd</sup> Avenue East Twin Falls, ID 83301

**PLANNING & ZONING COMMISSION MEMBERS**

**CITY LIMITS:**

Nikki Boyd   Jason Derricott   Tom Frank   Kevin Grey   Gerardo "Tato" Muñoz   Christopher Reid   Jolinda Tatum  
**Chairman   Vice-Chairman**

**AREA OF IMPACT:**

Ryan Higley   Steve Woods

**City Council Liaison**

Rebecca Mills Sojka

**I. CALL MEETING TO ORDER:**

1. Confirmation of quorum
2. Introduction of staff

**II. CONSENT CALENDAR:**

1. Approval of Minutes from the following meeting(s): 11-10-15 PH & 11-4-15 WS
2. Approval of Findings of Fact and Conclusions of Law:
  - Hernandez (SUP 11-10-15)
3. Consideration of a request to approve the 2016 Planning & Zoning Commission Schedule of Regular Meetings/Public Hearings.

**III. ITEMS OF CONSIDERATION:**

1. Consideration of the **preliminary plat** for Morning Sun Subdivision No. 9, consisting of 8.75 +/- acres and 27 single family residential lots and 1 tract on property located at the North East corner of Hankins Road North/3200 East Road and Stadium Blvd. **c/o Gerald Martens/EHM Engineers, Inc. on behalf of Morning Sun Partners, LLC**

**IV. PUBLIC HEARINGS:**

1. Request for a **Special Use Permit** to operate an automobile restoration business and to include a commercial paint booth on property located at 2042 4<sup>th</sup> Ave East. **c/o Sonny Warner on behalf of Dave Buddecke** (app. 2755)
2. Request for a **Special Use Permit** to construct and operate an indoor storage container rental warehouse on property located on the west side of the 100 block of Madrona Street. **c/o U-Haul Company of Idaho** (app. 2756)
3. Request for a **Special Use Permit** to operate an indoor recreation facility in conjunction with a retail business on property located at 218 Main Avenue North. **c/o The Typewrite Exchange, LLC/William R Snyder** (app. 2758)
4. Request for a **Zoning Title Amendment** to amend Title 10; Chapter 7; Section 14: by redefining the area prohibited for the outside storage or display of merchandise and defining the term "primary business building". **c/o City of Twin Falls** (app. 2757)

**V. GENERAL PUBLIC INPUT**

**VI. ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION**

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

1. Work Session- **January 6, 2016**
2. Public Hearing- **January 12, 2016**

**VIII. ADJOURN MEETING:**

Si desea esta información en español, llame Leila Sanchez al (208) 735-7287

Any person(s) needing special accommodations to participate in the above noticed meeting should contact Lisa A. Strickland at (208) 735-7267 at least two (2) working days before the meeting.

**CITY OF TWIN FALLS**  
**PLANNING & ZONING COMMISSION**

**Public Hearing Procedures for Zoning Requests**

1. Prior to opening the public meeting, the Chairman shall review the public hearing procedures, confirm a quorum is present and introduce staff present.
2. Individuals wishing to testify or speak before the Commission shall wait to be recognized by the Chairman, approach the microphone/podium, state their name and address, then commence with their comments. Following their statements, they shall write their name and address on the Sign-In record sheet(s) located on a separate table near the entrance of the chambers. The administrative assistant shall make an audio recording of each public meeting.
3. **The Applicant, or the spokesperson for the Applicant, shall make a presentation** on the application/request. No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing – WHICH IS A MINIMUM OF 15 DAYS PRIOR TO PUBLIC HEARING. **The applicant's presentation should include the following:**
  - **A complete explanation and description of the request.**
  - **Why the request is being made.**
  - **Location of the Property.**
  - **Impacts on the surrounding properties and efforts to mitigate those impacts.**The Applicant is limited to 15 minutes, unless a written request for additional time is received and granted by the Chairman prior to commencement of the public meeting.
4. Upon completion of the applicant's presentation City Staff will present a staff report which shall summarize the application/request, history of the property, if any, staff analysis of the request and any recommendations.
  - **The Commission may ask questions of staff or the applicant pertaining to the request at this time.**
5. The public will then be given the opportunity to provide public testimony/input/comments regarding the request.
  - **The Chairman may limit public testimony to no more than two (2) minutes per person.**
  - **Five (5) or more individuals, having received personal public notice of the application under consideration, may select a spokesperson by written petition. The spokesperson shall be limited to 15 minutes.**
  - **No written comments, including e-mail, received after 12:00 o'clock noon on the date of the hearing will be accepted for consideration by the hearing body. Written comments, including e-mail, received by 12:00 o'clock noon or before the date of the hearing shall be either read into the record or displayed on the overhead projector either during or upon the completion of public comment.**
  - **Following the Public Testimony, the applicant is permitted a maximum five (5) minutes rebuttal to respond to Public Testimony.**
6. Following the Public Testimony and Applicant's response, the Public Input portion of the public hearing shall be closed-**No further public testimony is permitted.** Commission Members, as recognized by the Chairman, shall be allowed to request clarification of any public testimony received of the Applicant, Staff or any person who has testified. The Chairman may again establish time limits.
7. The Chairman shall then close the Public Hearing. The Commission shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. **Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed.** Legal or procedural questions may be directed to the City Attorney.

**\*\***

**Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and thereafter removed from the room by order of the Chairman.**



**Public Hearing: Tuesday, December 08, 2015**

To: Planning & Zoning Commission

From: Rene'e V. Carraway-Johnson, Zoning & Development Manager

## AGENDA ITEM III-1

**Request:** Request for approval of a [Preliminary Plat](#) for Morning Sun Subdivision No. 9, approximately 8.75 (+/-) acres consisting of 27 single family residential lots and 1 tract on property located at the north east corner of Hankins Road North (aka 3200 East Road) and Stadium Blvd. c/o Gerald Martens/EHM Engineers, Inc. on behalf of Morning Sun Partners, LLC.

**Time Estimate:**

The applicant's presentation may take up to ten (10) minutes. Staff presentation will be approximately five (5) minutes.

**Background:**

<b>Applicant:</b>	<b>Status:</b> Owner	<b>Size:</b> 8.75 (+/-) acres
Morning Sun Partners, LLC 621 North College Rd #100 Twin Falls, ID 83301 208-734-4888	<b>Current Zoning:</b> R-2	<b>Requested Zoning:</b> Approval of the Morning Sun Subdivision No. 9 Preliminary Plat
	<b>Comprehensive Plan:</b> Medium Density	<b>Lot Count:</b> 27 S/F Lots and 1 Tract
	<b>Existing Land Use:</b> Agricultural Farm	<b>Proposed Land Use:</b> Residential Development
<b>Representative:</b>	<b>Zoning Designations &amp; Surrounding Land Use(s)</b>	
Gerald Martens EHM Engineers, Inc. 621 N College Rd #100 Twin Falls ID 83301 <a href="mailto:gmartens@ehminc.com">gmartens@ehminc.com</a> 208-734-4888	<b>North:</b> R-1 VAR in Aol; Residential	<b>East:</b> : R-2; Pillar Falls Elementary School under development
	<b>South:</b> R-2; Stadium Blvd-partially developed, residence/agricultural	<b>West:</b> Hankins Road North, R-1 VAR Residential
	<b>Applicable Regulations:</b> 10-1-4, 10-1-5, 10-12-1 through 4, 10-12-3.11	

**Approval Process:**

**As per Twin Falls City Code 10-12-2.3 Action on Preliminary Plat:**

The Commission may approve, conditionally approve, deny or table for additional information when acting on the preliminary plat. If tabled, approval or denial shall occur at the regular meeting following the meeting at which the plat is first considered by the Commission. The action and the reasons for such action shall be stated in writing by the Administrator and forwarded to the applicant. The administrator shall also forward a statement of the action taken and the reasons for such action together with a copy of the approved preliminary plat to the Council for its information and record.

**Budget Impact:**

As the request is for a Preliminary Plat, approval of this request will have negligible impact on the City budget.

**Regulatory Impact:**

Upon approval of a preliminary plat a final plat that is in conformance with the approved preliminary plat and including any conditions the Commission may have required, is then presented to the City Council. Only after a final plat has been approved by the City Council and construction plans approved, may the plat be recorded and lots sold for development.

**History:**

The Twin Falls School District purchased the property in 1990 from Melvin Sackett. The land has since been leased for agricultural purposes. The Sacket Farm Conveyance Plat was approved by the City Council and recorded in June 2008. This conveyance plat was for the purposes of selling a 2 acre lot to the City for a regional pressurized irrigation pump station. In August 2014, the City Council granted a request for annexation of this property. In November 2014, the City Council approved a Comprehensive Plan Amendment from Agricultural to Medium Density and a Water Service Boundary change to include this area. On February 9, 2015, the City Council approved a Zoning District and Zoning Map Amendment that changed this property from R-1 VAR to the R-2 Zoning District. Also in February 2015 the City Council approved a final plat of the Sacket Farms Sub No. 2. The Pillar Falls Elementary school is under development on Lot 1, Block 1, Sacket Farms Sub No. 2.

**Analysis:**

This is a request for a preliminary plat of Morning Sun Subdivision No. 9, 8.75 (+/-) acres consisting of 27 single family residential lots and 1 tract on property located at the north east corner of Hankins Road North (aka 3200 East Road) and Stadium Blvd. This is a replat of Lot 2 of the Sacket Farms No. 2 subdivision. Pillar Falls Elementary School is under construction on Lot 1 just east of this site.

There was a Parks in- Lieu Contribution request for \$17,064 submitted with the Morning Sun Subdivision No 9 preliminary plat application. This request has not been to the Parks and Recreation Commission for their review and recommendation nor to the City Council for their consideration. On March 9, 2015 the City Council approved the final plat of Morning Sun Subdivision No. 8 subject to a commitment by the developer to work with the Parks and Recreation Director to finalize an appropriate parks-in-lieu \$\$ amount and/or to consider what, if any, park amenities may be considered to be installed at the Morning Sun Park by the developer. As of today there has been no further discussion between the P&R Director and the developer. On the Morning Sun preliminary plat application there is a statement from the developer that he wishes to combine the parks-in-lieu fees for both Morning Sun No. 9 and Morning Sun No. 8 and use the \$\$ to improve and install park amenities to Morning Sun Park. This proposal has not been submitted to the Parks & Recreation Director for consideration as of today.

This is the first step of the plat approval process. A preliminary plat is presented to the Planning and Zoning Commission. The Commission may approve the preliminary plat, deny it, or approve it subject to conditions. A final plat, that is in conformance with the approved preliminary plat and including any conditions the Commission may have required, is then presented to the City Council. Only after a final plat has been approved by the City Council and construction plans approved, may the plat be recorded and lots sold for development.

Approval of a preliminary plat does not constitute a commitment by the City to provide water or waste water services. The plat indicates that each lot will be connected to City of Twin Falls water and sewer systems. A guarantee of services comes when the City Engineer signs a will-serve letter after final and construction plans are reviewed. It is also indicated on the Preliminary Plat that the site will be on a pressure irrigation (P.I.) system.

The plat is consistent with other subdivision development criteria and is in conformance with the Comprehensive Plan which designates this area as appropriate for medium density residential use.

**Conclusion:**

Staff recommends the Commission approve the preliminary plat of the Morning Sun Subdivision No. 9, as presented, and subject to the following conditions:

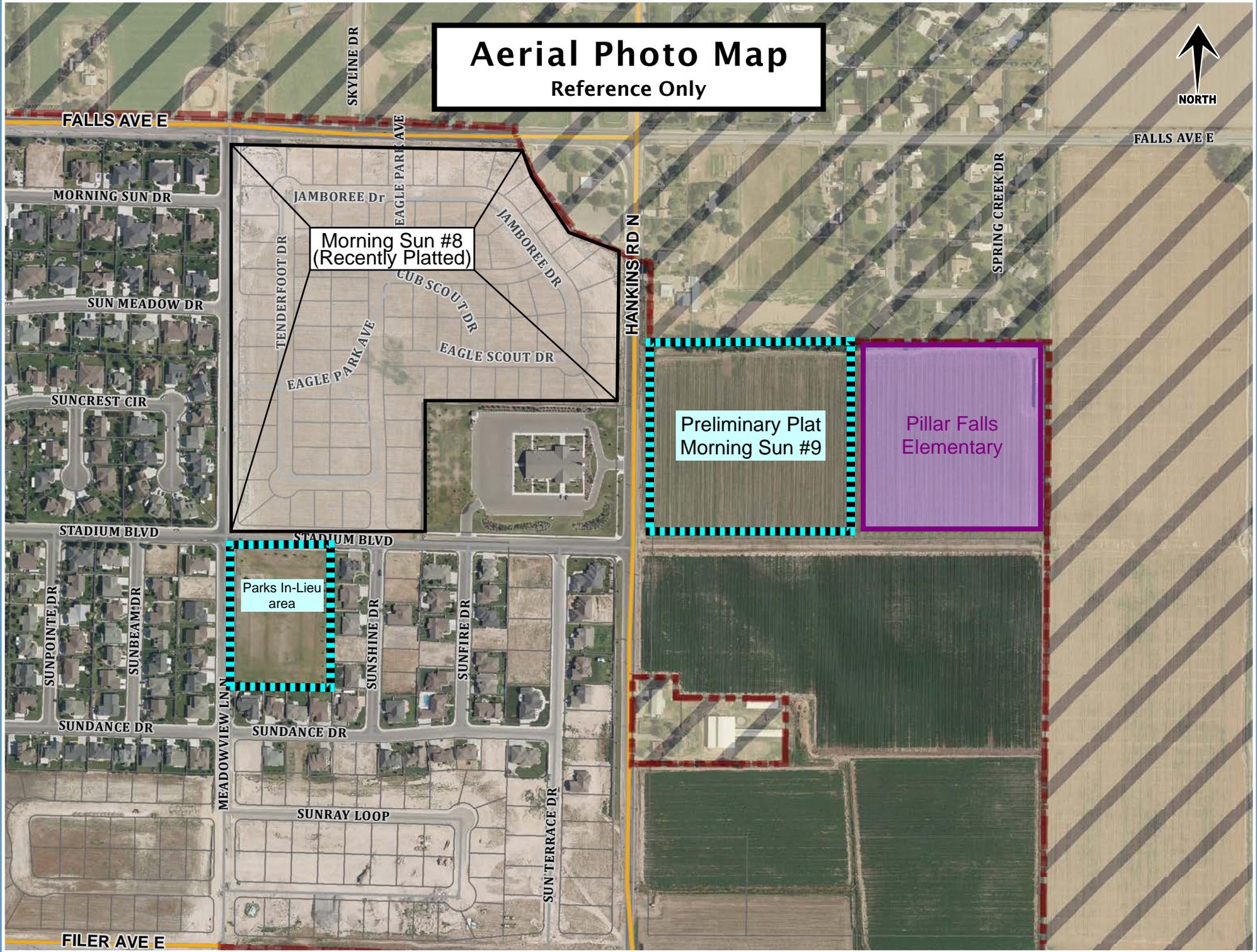
1. Subject to final technical review and amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to City Council decision on the Parks-In-Lieu Contribution request of Morning Sun Subdivision No. 8 and Morning Sun Subdivision No. 9 prior to the Morning Sun Subdivision No. 9 final plat being scheduled before the City Council.

**Attachments:**

1. Aerial Map
2. Zoning Map
3. Preliminary Plat
4. Morning Sun No. 9 - Parks in Lieu Request
5. Morning Sun No. 8 – Parks in Lieu Request
6. Site Photos

# Aerial Photo Map

Reference Only



Morning Sun #8  
(Recently Platted)

Preliminary Plat  
Morning Sun #9

Pillar Falls  
Elementary

Parks In-Lieu  
area

FALLS AVE E

FALLS AVE E

MORNING SUN DR

JAMBOREE Dr

JAMBOREE DR

SUN MEADOW DR

CUB SCOUT DR

EAGLE SCOUT DR

SUNCREST CIR

EAGLE PARK AVE

HANKINS RD N

SPRING CREEK DR

STADIUM BLVD

STADIUM BLVD

SUNPOINTE DR

SUNBEAM DR

SUNSHINE DR

SUNFIRE DR

SUNDANCE DR

SUNDANCE DR

MEADOWVIEW LN N

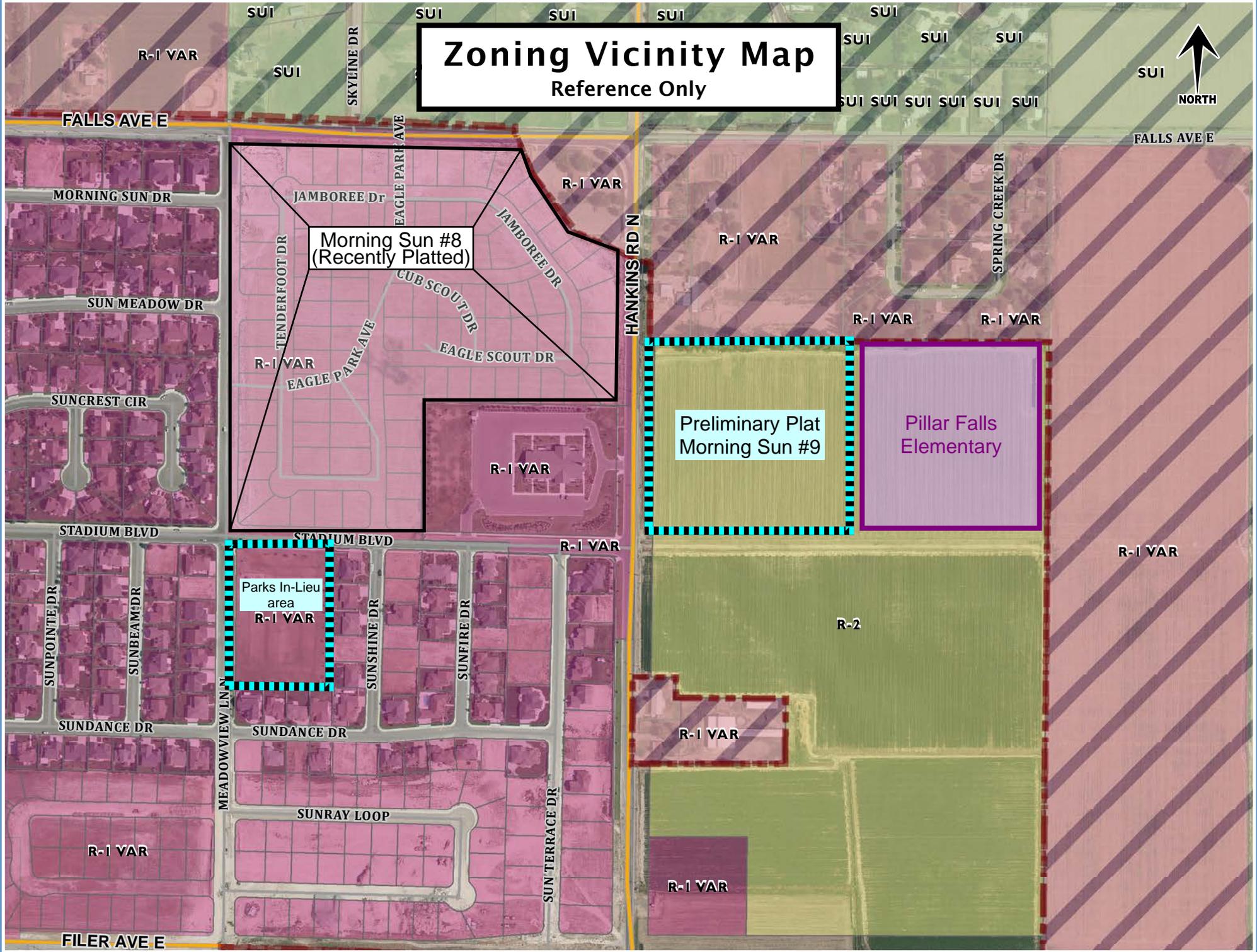
SUNRAY LOOP

SUN TERRACE DR

FILER AVE E

# Zoning Vicinity Map

Reference Only





PARKS IN LIEU CONTRIBUTION APPLICATION

Subdivision Name: MORNING SUN SUBDIVISION No 9

Number of Dwelling Units/acres: 27 Lots!

Developer: MORNING SUN PARTNERS LLC

Address/phone#: 621 NORTH COLLEGE,

Appraiser: NONE

Address/phone #: \_\_\_\_\_

The following items shall be included with the parks in lieu contribution submittal prior to acceptance by the City Administrator. It is the responsibility of the developer to see that all required information is submitted to the city at the time of the application. Please read the application and decide which process you are going to use. The City of Twin Falls allows three different requests. Please mark an X by the method used.

- Have you talked to the parks department about the requirements?
- Enclosed is a copy of the appraiser's value for the land.
- Enclosed copy of a bid/material costs to construct walking path/bike trail.
- I am requesting an in lieu of contribution in concept only. Will present final values at the time of the final plat application for approval.
- I am requesting an in lieu of contribution without walking/bicycle trails, using the following formula:
  - a. Determine the per acre appraised value of the land in the development. (L)  
(See 10-12-3-11(F)). Appraisal value: (L) 3,500 PURCHASE PRICE
  - b. The current park development cost is \$31,700 per acre. (P)
  - c. Total the number of household units in the development. (H) 27

**Note:** Lots large enough for multi-family units will require a certification and supporting covenants addressing the developer's intent relative to the requirement for single family dwellings.

d. Use the contribution (C) formula:  $C=(L+P)(H)(.01)$   
 $C= (L+31,700) (H) (.01)$

**Contribution Amount to be approved:** \$17064<sup>00</sup>

- I am requesting an in Lieu of contribution with walking/bicycle trails, using the following formula;
  - a. Determine the per acre appraised value of the land in the development. (L)  
(See 10-12-3-11(F).)
  - b. The current park development cost is \$31,700 per acre. (P)
  - c. Total the number of household units in the development. (H) \_\_\_\_\_

**Note:** Lots large enough for multi-family units will require a certification and supporting covenants addressing the developer's intent relative to the requirement for single family dwellings.

d. Use the following formula:

Land contribution portion:

- i. Appraisal value: (L) \_\_\_\_\_
- ii. Development costs for the walking/bicycle trail.
  - 1. Cost of land underneath the trail per square foot:  
(A) \_\_\_\_\_
  - 2. Cost to develop the trail per square foot:  
(B) \_\_\_\_\_
  - 3. Trail cost = (A + B) (total trail square footage):  
Trail cost \_\_\_\_\_
  - 4. Land portion = (L)(H)(0.01) - (Trail cost):  
**Land portion** \_\_\_\_\_

**Note:** Land portion cannot be less than 50% of (L)(H)(0.01).

**Park improvement portion** = (31,700) (H) (.01): \_\_\_\_\_

Land portion + park improvement portion = \_\_\_\_\_

**Contribution amount to be approved:** \_\_\_\_\_

**In lieu of contribution must be made prior to final plat recordation.**

*NOTE: DEVELOPER REQUESTS THAT DEVELOPER BE ALLOWED TO COMBINE PARK FUNDS FROM MORNING SUN 8 SUBDIVISION AND THE FEE FROM THIS PROJECT TO CONSTRUCT FACILITIES AT MORNING SUN PARK PREVIOUSLY DEDICATED BY THIS DEVELOPER.*

Date Submitted: \_\_\_\_\_  
Application accepted by City Administrator \_\_\_\_\_

City Council Agenda: Date \_\_\_\_\_  
Engineering approval \_\_\_\_\_



## Monday February 2, 2015 City Council Meeting

**To:** Honorable Mayor and City Council

**From:** Dennis J. Bowyer, Parks & Recreation Director

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### **Request:**

Consideration of a request to pay fees in lieu of park land dedication for the Morning Sun # 8 Subdivision.

### **Time Estimate:**

None – Consent Calendar

### **Background:**

The Morning Sun # 8 subdivision is a 91 lot subdivision on 30.47 acres. The subdivision is located at the southwest corner of Falls Avenue East and Hankins Road North, just south and west of the Boy Scouts' office.

Code Section 10-12-3-11 requires a dedication of one acre of land per 100 units developed within a subdivision for the development of a neighborhood park. Therefore, this subdivision will require a dedication of 0.91 acre of park land. However, City Code Section 10-12-3-11(F) states that:

“The City Council may, at their discretion, approve and accept cash contributions in lieu of park land with improvements, which contributions shall be used for park land acquisition and/or park improvements within the boundaries of the arterial streets in which the development is located.”

Morning Sun Park is located directly south of the proposed development. Since the park land dedication requirement from this subdivision is only .91 acres and Morning Sun Park is not fully developed neighborhood park (no restroom or shelter), staff supports the developer's request for a Parks in lieu of contribution.

Attached are the letter from the developer requesting the Parks in Lieu Contribution, the Park in Lieu of park application and a map showing the location of the proposed subdivision. A final value for the in lieu of fee has not yet been formulated, but the preliminary estimate is approximately \$43,400.

Ordinance # 3034 allows developments meeting all five (5) criteria shall qualify for a 50% reduction on their cash contribution in lieu of dedication of park land. The five criteria are:

1. The number of household units must be 8 or less per acre, as identified on the preliminary plat.
2. Development shall be located within city limits.
3. Development shall not border an arterial street.
4. Development shall not border the city limits.
5. Development must not have been converted from agricultural land.

The Morning Sun # 8 Subdivision does not qualify for the in-fill reduction due to # 3, 4 & 5.

The developer is requesting to receive a reduction in the Parks in Lieu of fee since they provided a 10' wide public trail on the north side of the subdivision. The developer would only receive a partial reduction of the cost of the trail construction since the development requires a 5' wide sidewalk. Discussions with the developer, he estimates that this deduction will be approximately \$7,100.

**Approval Process:**

City Code 10-12-3-11 provides for the Council to approve a request to pay fees in lieu of park land dedication. A public hearing is not required. The Code does not require a recommendation from the Parks & Recreation Commission. However, staff has made it a policy to bring these in-lieu requests to the Commission for a recommendation. At their January 13<sup>th</sup> meeting, the Commission unanimously recommended approval of the request.

**Budget Impact:**

At this time, the Parks in Lieu of fee has not been determined.

**Regulatory Impact:**

Approval of this request will allow the applicant to proceed with the development of this property without park land dedication.

**Conclusion:**

The Parks & Recreation Commission recommends that the City Council accept the developer's request to pay fees in lieu of park land dedication as part of the park ordinance with a reduction due to the construction of the public trail.

**Attachments:**

1. Area Map
2. Letter from Developer
3. Parks In Lieu Contribution Application
4. Preliminary Plat
5. City Parks & Recreation Facilities Map



IN THE FIELDS OF:  
PLANNING  
SURVEYING  
HIGHWAYS  
WATER  
WASTEWATER  
STRUCTURAL  
SUBDIVISIONS  
BRIDGES  
ENVIRONMENTAL  
QUALITY CONTROL  
CONSTRUCTION MGMT  
GRANT ADMINISTRATION

Date: January 7, 2015  
To: City of Twin Falls  
Attn: Dennis Boyer  
From: Gerald Martens *Gerald Martens*  
Via: Hand Deliver  
Regarding: Morning Sun Subdivision #8  
In Lieu Park Contribution

Please accept this as Morning Sun Partners' proposal to complete a modified in lieu park contribution for the development of Morning Sun Subdivision No. 8.

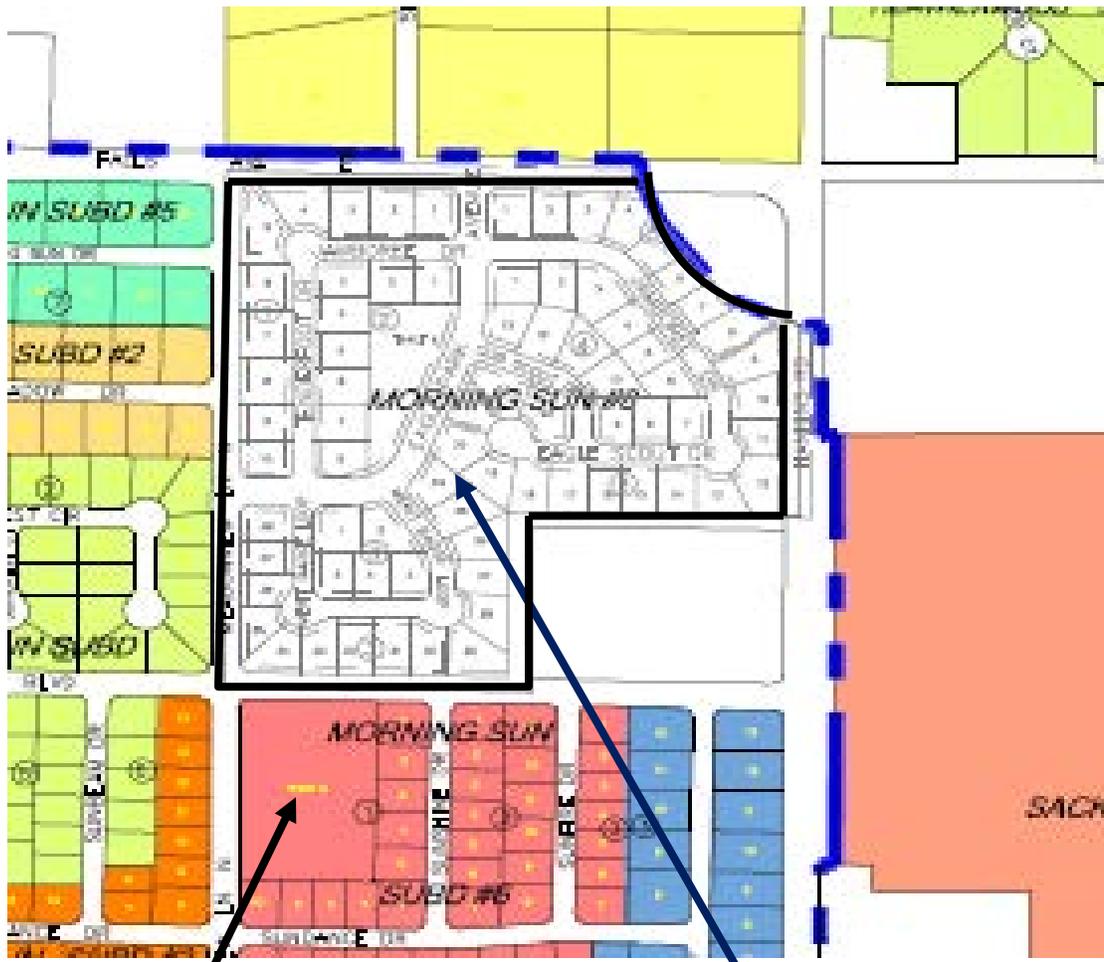
Morning Sun Subdivision No. 8 required the construction of a bicycle/walking trail adjacent to ~~Pole Line Road~~ East. This trail has already been completed and is being utilized by the public.

Based on the recent approval for the School District property adjacent to the proposed subdivision, and 91 residential units, the in lieu contribution will be approximately \$45,000.00 which will be reduced by the cost of the public trail. I recognize it will be necessary to verify the appraised value and the actual costs of the pathway.

Furthermore, Morning Sun Partners would propose to complete improvements to the existing Morning Sun Park of a value equal to the calculated and agreed upon in lieu value. The nature of the improvement will be that specified by the City of Twin Falls. The work would be completed prior to recordation of the plat or a financial guarantee would be provided.

Thank you for your consideration of this request.

051-02



Morning Sun Park

Morning Sun # 8 Subdivision

PARKS IN LIEU CONTRIBUTION APPLICATION

Subdivision Name: MORNING SUN SUBDIVISION No 8  
Number of Dwelling Units/acres: 81 / 30.47 ACRES  
Developer: MORNING SUN PARTNERS  
Address/phone#: 203-734-4838

Appraiser: NONE - TBD  
Address/phone #: \_\_\_\_\_

The following items shall be included with the parks in lieu contribution submittal prior to acceptance by the City Administrator. It is the responsibility of the developer to see that all required information is submitted to the city at the time of the application. Please read the application and decide which process you are going to use. The City of Twin Falls allows three different requests. Please mark an X by the method used.

- Have you talked to the parks department about the requirements?
- Enclosed is a copy of the appraiser's value for the land.
- Enclosed copy of a bid/material costs to construct walking path/bike trail.
- I am requesting an in lieu of contribution in concept only. Will present final values at the time of the final plat application for approval.
- I am requesting an in lieu of contribution without walking/bicycle trails, using the following formula:
  - a. Determine the per acre appraised value of the land in the development. (L) (See 10-12-3-11(F)). Appraisal value: (L) TBD
  - b. The current park development cost is \$31,700 per acre. (P)
  - c. Total the number of household units in the development. (H) 81 91

**Note:** Lots large enough for multi-family units will require a certification and supporting covenants addressing the developer's intent relative to the requirement for single family dwellings.

d. Use the contribution (C) formula:  $C=(L+P)(H)(.01)$   
 $C= (L+31,700) (H) (.01)$

**Contribution Amount to be approved:** \_\_\_\_\_

- I am requesting an in Lieu of contribution with walking/bicycle trails, using the following formula;
  - a. Determine the per acre appraised value of the land in the development. (L) (See 10-12-3-11(F).)
  - b. The current park development cost is \$31,700 per acre. (P)
  - c. Total the number of household units in the development. (H) 81 91

**Note:** Lots large enough for multi-family units will require a certification and supporting covenants addressing the developer's intent relative to the requirement for single family dwellings.

- d. Use the following formula:  
 Land contribution portion:
- i. Appraisal value: (L) \_\_\_\_\_
  - ii. Development costs for the walking/bicycle trail.
    1. Cost of land underneath the trail per square foot:  
(A) \_\_\_\_\_
    2. Cost to develop the trail per square foot:  
(B) \_\_\_\_\_
    3. Trail cost = (A + B) (total trail square footage):  
Trail cost \_\_\_\_\_
    4. Land portion = (L)(H)(0.01) – (Trail cost):  
**Land portion** \_\_\_\_\_

**Note:** Land portion cannot be less than 50% of (L)(H)(0.01).

**Park improvement portion** = (31,700) (H) (.01): \_\_\_\_\_

Land portion + park improvement portion = \_\_\_\_\_

**Contribution amount to be approved:** \_\_\_\_\_

**In lieu of contribution must be made prior to final plat recordation.**

Date Submitted: \_\_\_\_\_  
 Application accepted by City Administrator \_\_\_\_\_

City Council Agenda: Date \_\_\_\_\_  
 Engineering approval \_\_\_\_\_

Morning Sun Subdivision No. 8  
 Located in  
 A Portion of  
 NE 1/4, Section 16  
 Township 10 South, Range 17 East  
 Boise Meridian  
 Twin Falls County, Idaho  
 2015



**LEGEND**  
 1. 1" P.A.T. shown as double line



Lot No.	Area (sq. ft.)	Area (sq. ft.)	Area (sq. ft.)
1	1,234	1,234	1,234
2	1,234	1,234	1,234
3	1,234	1,234	1,234
4	1,234	1,234	1,234
5	1,234	1,234	1,234
6	1,234	1,234	1,234
7	1,234	1,234	1,234
8	1,234	1,234	1,234
9	1,234	1,234	1,234
10	1,234	1,234	1,234
11	1,234	1,234	1,234
12	1,234	1,234	1,234
13	1,234	1,234	1,234
14	1,234	1,234	1,234
15	1,234	1,234	1,234
16	1,234	1,234	1,234
17	1,234	1,234	1,234
18	1,234	1,234	1,234
19	1,234	1,234	1,234
20	1,234	1,234	1,234
21	1,234	1,234	1,234
22	1,234	1,234	1,234
23	1,234	1,234	1,234
24	1,234	1,234	1,234
25	1,234	1,234	1,234
26	1,234	1,234	1,234
27	1,234	1,234	1,234
28	1,234	1,234	1,234
29	1,234	1,234	1,234
30	1,234	1,234	1,234
31	1,234	1,234	1,234
32	1,234	1,234	1,234
33	1,234	1,234	1,234
34	1,234	1,234	1,234
35	1,234	1,234	1,234
36	1,234	1,234	1,234
37	1,234	1,234	1,234
38	1,234	1,234	1,234
39	1,234	1,234	1,234
40	1,234	1,234	1,234
41	1,234	1,234	1,234
42	1,234	1,234	1,234
43	1,234	1,234	1,234
44	1,234	1,234	1,234
45	1,234	1,234	1,234
46	1,234	1,234	1,234
47	1,234	1,234	1,234
48	1,234	1,234	1,234
49	1,234	1,234	1,234
50	1,234	1,234	1,234
51	1,234	1,234	1,234
52	1,234	1,234	1,234
53	1,234	1,234	1,234
54	1,234	1,234	1,234
55	1,234	1,234	1,234
56	1,234	1,234	1,234
57	1,234	1,234	1,234
58	1,234	1,234	1,234
59	1,234	1,234	1,234
60	1,234	1,234	1,234
61	1,234	1,234	1,234
62	1,234	1,234	1,234
63	1,234	1,234	1,234
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91	1,234	1,234	1,234
92	1,234	1,234	1,234
93	1,234	1,234	1,234
94	1,234	1,234	1,234
95	1,234	1,234	1,234
96	1,234	1,234	1,234
97	1,234	1,234	1,234
98	1,234	1,234	1,234
99	1,234	1,234	1,234
100	1,234	1,234	1,234



**Health Certificate**  
 THIS PLAN IS SUBJECT TO THE HEALTH DEPARTMENT'S CODES AND REGULATIONS. THE HEALTH DEPARTMENT HAS REVIEWED THIS PLAN AND HAS ISSUED THIS HEALTH CERTIFICATE. THE HEALTH DEPARTMENT'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE HEALTH DEPARTMENT'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE HEALTH DEPARTMENT'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.



**EHM Engineers, Inc.**

DATE: \_\_\_\_\_



Frontage along Stadium Blvd Extended .  
Looking NW towards Hankins Rd and the LDS  
Church.

12/03/2015 10:39 AM



New Elementary school shown in the Background.  
Proposed Subdivision is currently being used for the  
“laydown” area for school construction.

12/03/2015 10:39 AM



Public Hearing: **TUESDAY, DECEMBER 8, 2015**

To: Planning & Zoning Commission

From: Rene'e V. (Carroway) Johnson, Community Development Department

## AGENDA ITEM IV-1

**Request:** Request for a **Special Use Permit** to operate an automobile restoration business and to include a commercial paint booth on property located at 2042 4<sup>th</sup> Ave East. c/o Sonny Warner on behalf of Dave Buddecke (app. 2755)

**Time Estimate:**

The applicant's presentation may take up to ten (10) minutes. Staff presentation will be approximately five (5) minutes.

**Background:**

<b>Applicant:</b>	<b>Status:</b> Owner	<b>Size:</b> +/- 9800 sf Building; 1 Acre lot
Dave Buddecke 2042 4 <sup>th</sup> Ave E Twin Falls, ID 83301 208-308-1673	<b>Current Zoning:</b> M-1	<b>Requested Zoning:</b> Special Use Permit to operate an automobile restoration business to include a commercial paint booth.
	<b>Comprehensive Plan:</b> Commercial/Retail	<b>Lot Count:</b> 1 Lot
	<b>Existing Land Use:</b> Vacant building	<b>Proposed Land Use:</b> Automobile restoration business to include a commercial paint booth.
<b>Representative:</b>	<b>Zoning Designations &amp; Surrounding Land Use(s)</b>	
Sonny Warner 323 Wycoff Cir Twin Falls, ID 83301 208-410-3244	<b>North:</b> R-4 & M-1, 4 <sup>th</sup> Ave E; Residential	<b>East:</b> M-1; Commercial
	<b>South:</b> M-1; Trucking facility	<b>West:</b> M-1; Commercial
	<b>Applicable Regulations:</b> 10-1-4, 10-1-5, 10-4-9.2(B)-13b, 10-7-18, 10-10, 10-11-1 thru 8,10-13-2-2	

**Approval Process:**

The Special Use Permit process requires a public hearing to be held in which interested persons have the opportunity to be heard with regards to the application.

Within thirty (30) days after the public hearing, the Commission shall approve, conditionally approve, or disapprove the application as presented during the hearing. If conditions are placed on the permit, the Administrator shall issue a special use permit listing the specific conditions specified by the Commission for approval.

If an applicant or interested party appeals the decision of the Commission, the City Council shall set a hearing date to consider all information, testimony and minutes of the previous hearing to reach a decision on the appeal.

## **Budget Impact:**

Approval of this request may have an impact on the City budget as it will be operating a tax based service business.

## **Regulatory Impact:**

Approval of this request will allow the applicant to continue with the building permit process to remodel the building so he can operate an automobile restoration business to include a commercial paint booth.

**A Special Use Permit Is For Zoning Purposes Only. Other Permits Such As Sign, Building, Electrical Or Plumbing Permits, Etc. May Be Required. All Facilities Must Comply With All Building And Fire Code Regulations.**

## **History:**

In March of 1978 the City Council approved Ordinance #1887 to Bruce A. Buck, M.D. for the conditional use of the property to construct an indoor recreational facility. There were two conditions; 1) Proposed driveway approaches shall be in conformance with requirements of Resolution #1168 and 2) Curb and gutter shall be constructed to City standards along Fourth Avenue East.

In June of 1981 The Planning and Zoning Commission approved Special Use Permit #71 for expansion of an indoor recreational facility. There was a condition that the sidewalk was to be constructed but was deferred.

There was Special Use Permit #341 approved by the Planning and Zoning Commission in February of 1993 for a day care center. This Special Use Permit was condition to the applicant receiving all necessary Building Code, Fire Code and State licensing approvals. It is unknown if the day care ever was in operation.

## **Analysis:**

The applicant has supplied a narrative outlining the details of the proposed use of the property and building. The hours of operation will be 8:00 AM – 5:00 PM, Monday – Friday. There are three (3) employees.

The applicant believes that the impacts to neighboring land uses will be minimal. His narrative states that he does not anticipate any change in odor, glare, or otherwise objectionable impacts to neighboring properties. The applicant believes there will be little to no noise heard outside the repair shop due to air sanders and compressors. Within the first year of occupancy the applicant anticipates installing a paint booth inside the facility. This paint booth will comply with all current codes. There will be no fumes outside the repair shop due to the high quality of the paint booth.

Per City Code 10-4-9.2: Automobile and truck service and/or repair businesses are required to have a special use permit in order to operate. There are residences nearby, particularly across 4<sup>th</sup> Avenue East. The proposed automobile restoration business may increase traffic. The applicant anticipates three (3) to five (5) vehicles a day traveling on and off the property.

Per City Code 10-7-18: Inside commercial painting is permitted only by special use permit. The applicant proposes the use of a spray booth for painting vehicles. He anticipates minimal paint fumes inside the building and no fumes outside due to the type of paint booth system he is using.

All improvements made on the subject property are required to comply with standards set forth in Twin Falls City Code.

Per City Code 10-10: The number of parking spaces required is three (3) plus one and one half (1.5) per service bay. This ratio equals nine (9) spaces maximum. The submitted site plan exceeds the minimum code requirement.

Per City Code 10-11-1 thru 8: Required improvements to the property are required to be in conformance with city code at the time of building permit. All required improvements including landscaping, screening, parking areas, drainage and storm water retention will be reviewed with the building permit submitted to the city and will be required to meet the minimum requirements.

Landscaping: Currently the landscape area complies with minimum required city code. The trees and bushes will have to be replaced and maintained per city code.

Possible Impacts: This particular business has been in operation at his current location, 323 Wycoff Circle, for some time. The City has not received any recent zoning complaints regarding this business or location. It is believed that the proposed automobile restoration business, including a commercial paint booth, being proposed will not greatly impact beyond what is reasonably acceptable at this location. However, any automobile restoration business has the potential to become an unsightly visual impact to neighbors and the community. In order to mitigate this visual impact to neighbors and the community as a whole, it would be acceptable to require all un-operable vehicles and parts to be stored inside, or within a sight obscuring fence area. Also, a time limit for vehicles to be parked outside that are either waiting to be worked on or work is completed would be appropriate.

## **Conclusion:**

Should the Commission grant this request as presented; city staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the trees and bushes being replaced and maintained per city code no later than March 31, 2016.
3. Subject to all inoperable, un-licensed, or junk vehicles, and all parts being stored inside, or behind a sight obscuring fence that has been approved by staff.
4. No vehicle parked outside for longer than 2 business days prior or after work is completed.
5. Subject to a Certificate of Occupancy issued by the City prior to operation of the paint booth, as described.

## **Attachments:**

1. Letter of Request
2. Zoning & Vicinity Map
3. Aerial Photo Map
4. Site Plan – Applicant Submitted
5. Elevations – Applicant submitted
6. Ordinance #1887
7. Special Use Permit #71
8. Special Use Permit #341
9. Site Photos (3)
10. Citizen Letter received by Staff

Dear City Of Twin Falls,

I am writing on behalf of Sonny's Speed and Kustom LLC. We specialize in building custom vehicles and restoring older vehicles. We do not do typical maintenance or services, strictly cosmetic restorations. We are currently a 3 employee company and have quickly outgrown our current facility. So, we are looking to expand into the building located at 2042 4<sup>th</sup> avenue East, Twin Falls. This new facility will allow us to add more employees and further serve the Magic Valley. We are locally owned and try to give back to the community as much as they have given to us by sponsoring many different local and statewide car shows and charity events. We have also helped many businesses get their name out by building unique vehicles that they use in parades and local car shows. We believe this move will also help the local community by filling a vacant building, which we also plan on touching up cosmetically by adding landscaping and touching up any paint blemishes. We also plan on incorporating two overhead garage doors which will be 10x10 and 12x14 to provide access into the front of the building on the East and North facing walls. Internally over the first year of occupancy and given the proper permits, we will be adding a paint booth inside of the facility that will be up to all current codes. We will have very little impact on the surrounding community as far as odors, or sounds. We operate from 8am-5pm, Monday-Friday. We will also have very little traffic impact as we have very few employees and regular customers we estimate only 3-5 cars traveling on and off the property per day. We look forward to working with you and continuing to grow with the surrounding community.

Sincerely,

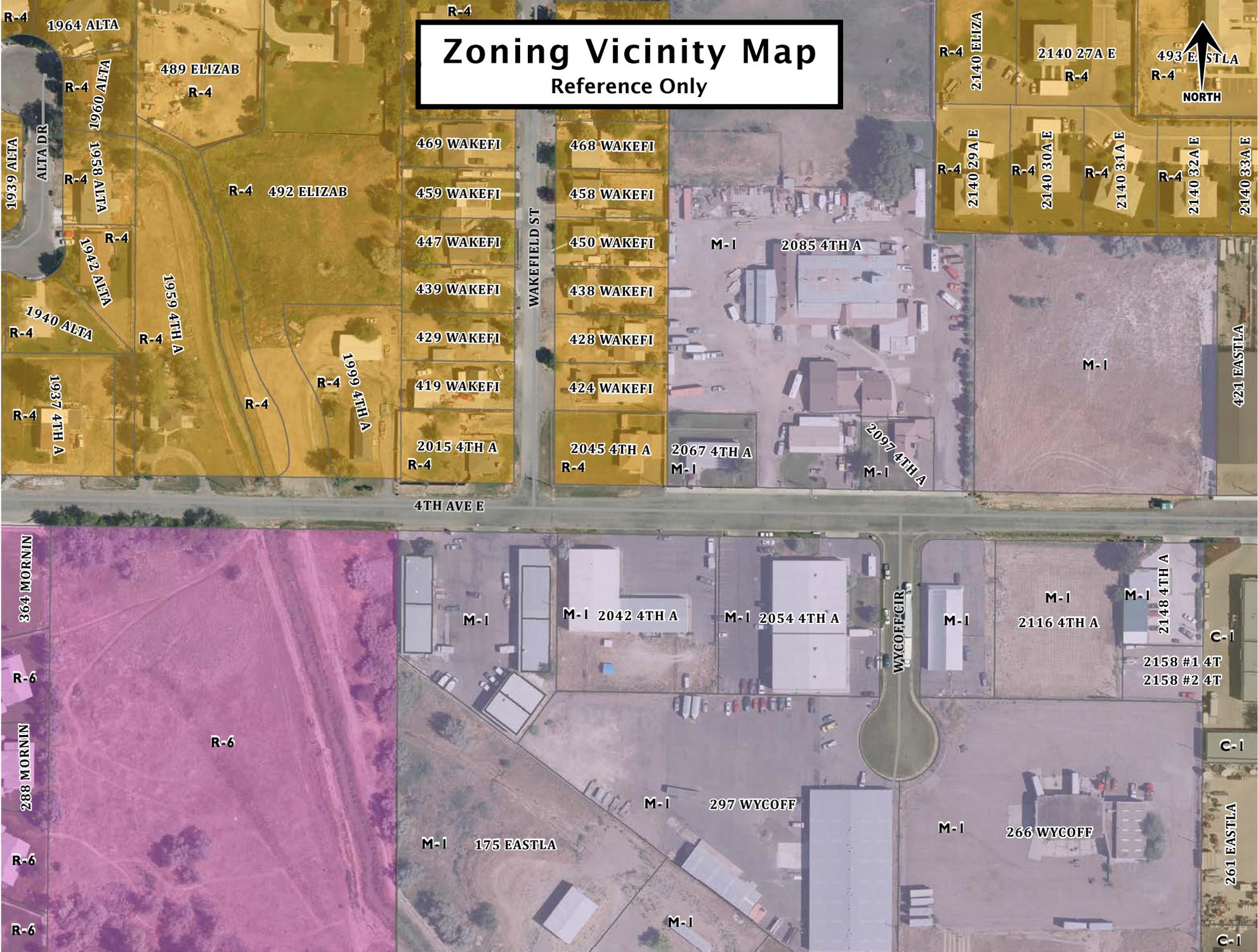
Sonny Warner

CEO/Owner

Sonny's Speed and Kustom LLC

# Zoning Vicinity Map

Reference Only



# Aerial Photo Map

Reference Only



2015 4TH A

WAKEFIELD ST

2067 4TH A

2081 4TH A

4TH AVE E

2022 A 4TH

2022 B 4TH

2042 4TH A

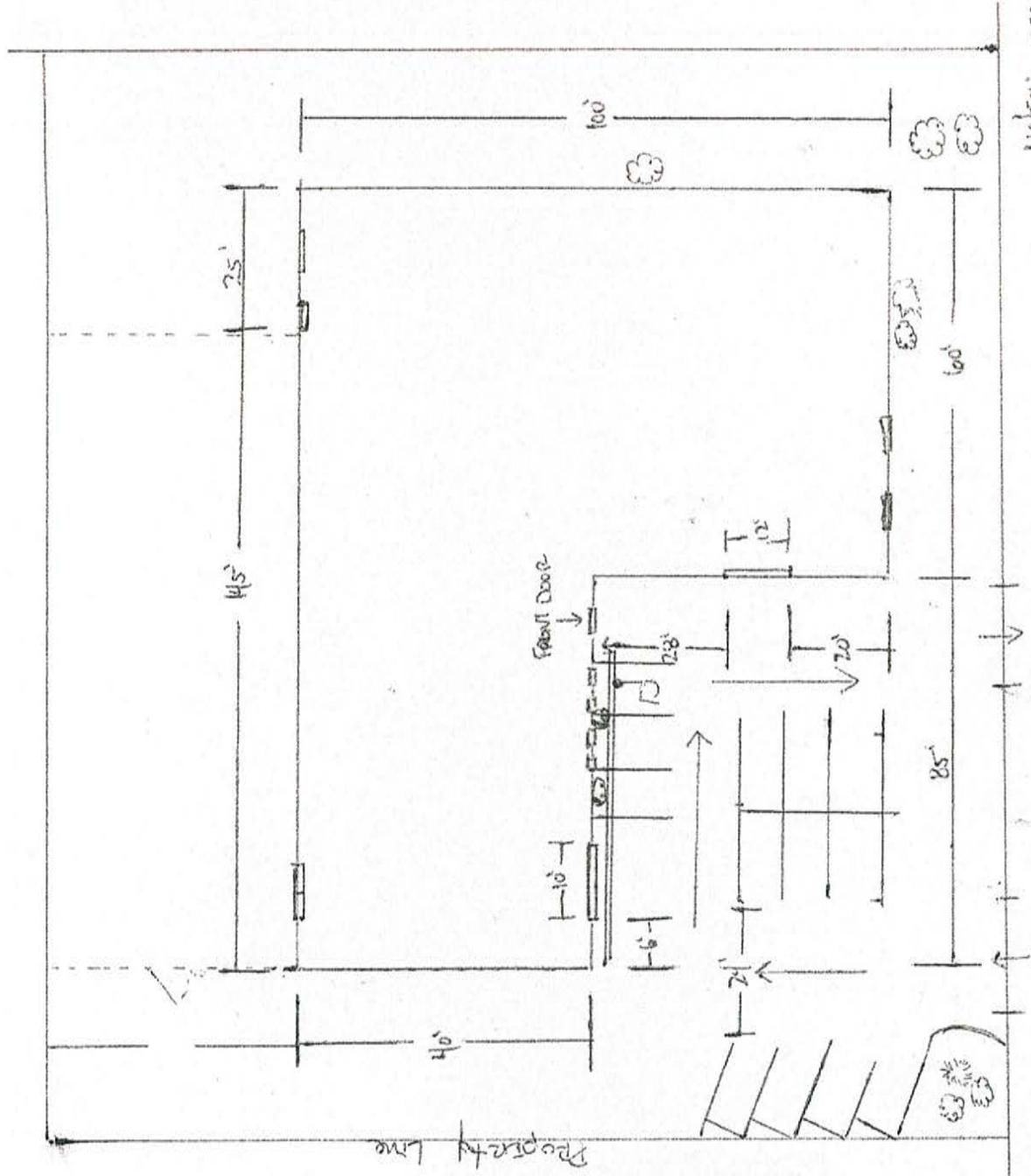
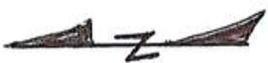
2054 4TH A

2018 A 4TH

2018 B 4TH

297 WYCOFF





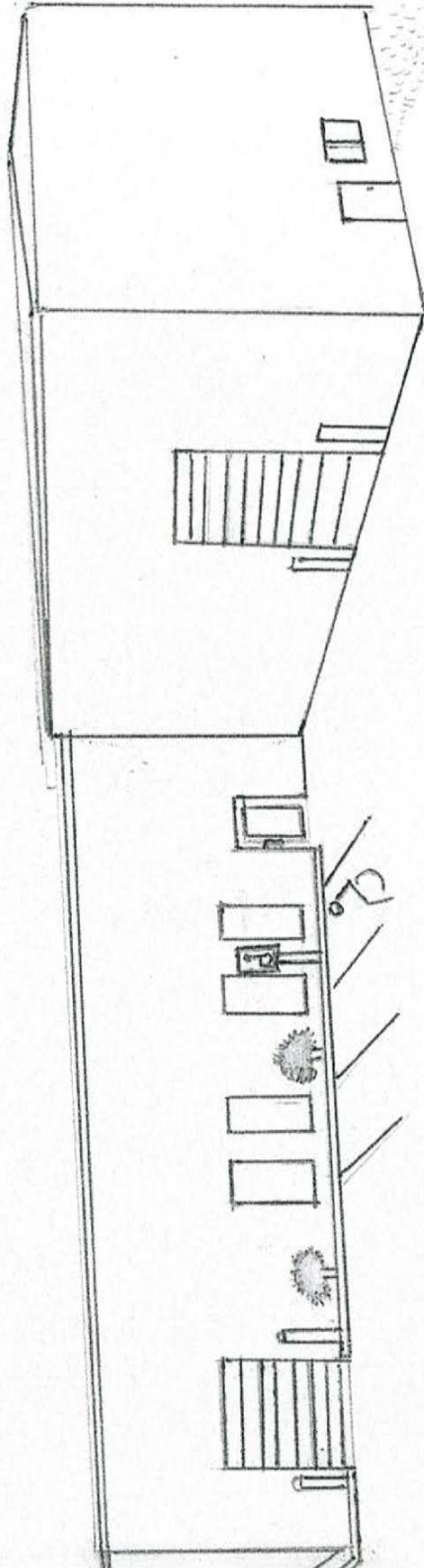
NOTES: - - - - FENCE

4th AVE. EAST

Sommys Speed Station  
2012 4th AVE. EAST  
Twin Falls, ID 83701

SCALE: 3/8" = 10'

**SPEED & KUSTOM**  
*Sorry's*



3-20-78 Bldg Fed

Zoning

ORDINANCE NO. 1887

AN ORDINANCE OF THE CITY OF TWIN FALLS, STATE OF IDAHO, GRANTING THE APPLICATION OF BRUCE A. BUCK, M.D., FOR THE CONDITIONAL USE OF PROPERTY LOCATED IN A INDUSTRIAL DENSITY ZONE IN ORDER THAT APPLICANT MAY CONSTRUCT AN INDOOR RECREATIONAL FACILITY.

WHEREAS, an application has been duly filed by Bruce A. Buck, M.D., for the conditional use of property located in a industrial density zone in order that applicant may construct an indoor recreational facility, and the City Council having held its Public Hearing as required by law on the 20th day of March, 1978,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF TWIN FALLS, STATE OF IDAHO:

Section 1. That the application of Bruce A. Buck, M.D., for the conditional use of property located in the 2000 Block of 4th Avenue East, Twin Falls, Idaho, in a industrial density zone, in order that applicant may construct an indoor recreational facility be and the same is hereby granted and approved, which property is described as:

Lot 6, Block 1, Wycoff Subdivision, Twin Falls, Idaho.

and upon the following special conditions:

1. Proposed driveway approaches shall be in conformance with requirements of Resolution No. 1168.
2. Curb and gutter shall be constructed to City standards along Fourth Avenue East.

PASSED BY THE CITY COUNCIL March 20, 1978

SIGNED BY THE MAYOR March 20, 1978

*Leon E. Smith*  
Mayor

ATTEST:

*Edythe D. Kooty*  
City Clerk

SPECIAL USE

DATE: June 23, 1981

PERMIT NO.:

Nº 71

The City of Twin Falls Planning & Zoning Commission has publicly heard the Special Use request of: Bruce A. Buck and has reviewed and noted the facts and circumstances of the proposed use in terms of the following standards:

- a. Will, in fact, constitute a special use as established by zoning requirements for the zone involved.
- b. Will be harmonious with and in accordance with the general objectives or with any specific objective of a Comprehensive Plan and/or the Zoning regulations.
- c. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- d. Will not be hazardous or disturbing to existing or future neighboring uses.
- e. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- f. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- g. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- h. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- i. Will not result in the destruction, loss, or damage of a natural, scenic or historic feature of major importance.
- j. Other factors considered: \_\_\_\_\_

X THE SPECIAL USE IS HEREBY PERMITTED WITH THE FOLLOWING CONDITIONS:

Indoor Rec. Facility  
2042 4th Ave. E.

- a. Minimizing adverse impact on other developments: \_\_\_\_\_
- b. Controlling the sequence and timing of development: \_\_\_\_\_
- c. Controlling the duration of development: \_\_\_\_\_
- d. Assuring that development is maintained properly: \_\_\_\_\_
- e. Designating the exact location and nature of development: \_\_\_\_\_
- f. Requiring the provision for on-site or off-site public facilities or services: \_\_\_\_\_
- g. Requiring more restrictive standards than those generally required in Title 10 Twin Falls City Code: \_\_\_\_\_
- h. Other: Sidewalk to be constructed but deferred

THE SPECIAL USE IS HEREBY DENIED FOR THE FOLLOWING REASONS:

The applicant is hereby advised that he may appeal the foregoing decision to the Twin Falls City Council provided a written appeal is submitted through the Administrator to the Council within fifteen (15) days of receipt of this notification.

LaMar N. Carter  
Administrator

William Rollifield  
Chairman,  
Twin Falls Planning & Zoning Commission

Office of  
COMMUNITY DEVELOPMENT



P. O. BOX 1907  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PHONE 736-2267 Area Code 208

SPECIAL USE PERMIT

Permit No. 0341

Granted by the Twin Falls City Planning and Zoning Commission on February 9, 1993, to Sage, Inc. (Robert Van Wagoner), whose address is 2042 4th Avenue East, for the purpose of operating a day care center on real property located at 2042 4th Avenue East and legally described as Lot 6 of Block 1, Wycoff Industrial Subdivision.

The Commission has attached the following conditions which must be fully implemented to avoid permit revocation (City Code Section 10-13-2.3):

- 1) Approval subject to the applicant receiving all necessary Building Code, Fire Code and State licensing approvals.

Chairman

**THIS PERMIT IS FOR ZONING PURPOSES ONLY.** Other permits such as sign, building, electrical or plumbing permits, etc. may be required.

Please contact the Building Department at 736-2238 for further information.

This permit corresponds to Application No. 0846

cc: BUILDING DEPARTMENT



Frontage along 4<sup>th</sup> Ave East.

12/03/2015 10:46 AM



Rear area of business. Photo taken looking to the NW from the adjacent business parking lot.

12/03/2015 10:47 AM

Untitled

November 23, 2015

Renee V. Carraway-Johnson  
Zoning & Development Mgr.  
POB 1907  
Twin Falls, ID 83303

RECEIVED

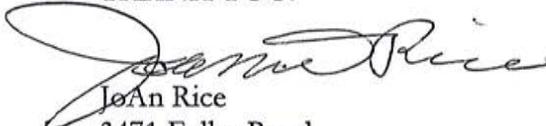
NOV 30 2015

CITY OF TWIN FALLS  
PLANNING & ZONING

We received your notice of a public hearing on December 8, relative to a commercial paint booth at 2042 4th Avenue East. I am unable to attend the meeting due to the distance and winter weather. But would like to voice my opposition.

We have a nice rental home in that area, and I do not wish to see area further developed commercially. Especially with a toxic business. I feel it would be detrimental due to the environment impact and the air quality for those living nearby. There would also be increased traffic and more parked vehicles visible from the street. I feel it would lower the value of properties nearby.

I would appreciate it if this letter could be read at the meeting, since I cannot be present.  
THANK YOU.

  
JoAn Rice  
3471 Fuller Road  
Emmett, ID 83617





Public Hearing: **TUESDAY, December 8, 2015**

To: Planning & Zoning Commission

From: Rene'e Carraway-Johnson, Community Development

## AGENDA ITEM IV-2

**Request:** Request for a **Special Use Permit** to construct and operate an indoor storage container rental warehouse on property located on the west side of the 100 block of Madrona Street. c/o U-Haul Company of Idaho (app. 2756)

**Time Estimate:**

The applicant's presentation may take up to ten (10) minutes. Staff presentation will be approximately five (5) minutes.

**Background:**

<b>Applicant:</b>	<b>Status:</b> Owner	<b>Size:</b> 0.5 Acres land; +/- 2500 sq ft Bldg
U-Haul Co. of Idaho 8155 Chinden Blvd Garden City, ID 83714 208-377-2770 <a href="mailto:dawn_snapp@uhaul.com">dawn_snapp@uhaul.com</a>	<b>Current Zoning:</b> C-1	<b>Requested Zoning:</b> SUP –Warehousing - Indoor Storage Unit Rentals
	<b>Comprehensive Plan:</b> Commercial/Retail	<b>Lot Count:</b> 1 Lot
	<b>Existing Land Use:</b> Undeveloped -- non-conforming use of Outdoor Vehicle Storage	<b>Proposed Land Use:</b> Warehousing - Indoor Storage Unit Rentals
<b>Representative:</b>	<b>Zoning Designations &amp; Surrounding Land Use(s)</b>	
Joe Craft Bideganeta Const. Inc. 2527 Canyon Creek Road Mountain Home, ID 83647 208-587-5679 <a href="mailto:jcraft@bideganeta.com">jcraft@bideganeta.com</a>	<b>North:</b> C-1, Commercial Business	<b>East:</b> C-1, Madrona St/Power Plant, LLC
	<b>South:</b> C-1, U-Haul/Stinker Station/Kimberly Rd	<b>West:</b> C-1, parking area for The Pressbox Sports Bar
	<b>Applicable Regulations:</b> 10-1-4, 10-1-5, 10-4-8.2(B)14a, 10-10, 10-11-1 thru 8, 10-13	

**Approval Process:**

The Special Use Permit process requires a public hearing to be held in which interested persons have the opportunity to be heard with regards to the application.

Within thirty (30) days after the public hearing, the Commission shall approve, conditionally approve, or disapprove the application as presented during the hearing. If conditions are placed on the permit, the Administrator shall issue a special use permit listing the specific conditions specified by the Commission for approval.

If an applicant or interested party appeals the decision of the Commission, the City Council shall set a hearing date to consider all information, testimony and minutes of the previous hearing to reach a decision on the appeal.

**Budget Impact:**

Approval of this request will have marginal impact on the City budget.

### **Regulatory Impact:**

Approval of this request will allow the applicant to operate a warehouse for indoor storage pod/unit rentals at the proposed location.

**A special use permit is for zoning purposes only.** Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

### **History:**

The location has been zoned C-1 at least as far back as the 1970's. The property is undeveloped and is being used as an illegal overflow storage yard for U-Haul on Kimberly Rd. There is no further zoning history for this location.

### **Analysis:**

The property is zoned C-1 and is located on an undeveloped portion of Lot 1; Block 3, Severson Subdivision. The site fronts Madrona St and is 90' x 250' +/- . U-Haul Real Estate Company owns the site. It is currently being used as an illegal vehicle storage/junk yard. The request is to rent metal containers/pods and store them in a warehouse. The applicant has provided a narrative outlining the business as they plan to operate. The narrative does not state how many storage containers/pods they anticipate inside the warehouse at any one time. Within the C-1 zone there is no allowance for outside storage. The Commission may wish to place a condition there be no outside storage on this site. The applicant does not anticipate the increase in traffic to be significant due to the nature of the business. The receiving and delivering of containers/pods will be via U-Haul trucks and trailers only.

**Per City Code 10-4-8(B)14 –Wholesale Category;** a. Wholesale distribution and warehousing, but excluding H-1 facilities.

Warehousing within the C-1 zone requires a special use permit prior to legally establishing and operating this business. The proposed operation of this business is to allow for the rental/storage of individual pods within a warehouse.

**Possible Impacts:** These types of businesses, as described by the applicant, typically cause minimal impacts. Those impacts commonly involve increase in traffic, and occasionally noise.

The noise impacts do not typically affect neighboring businesses as the operations primarily take place indoors. Occasionally these businesses create some noise due to forklifts and truck traffic. However, the location of this business is near Kimberly Road, and consequently surrounded by Commercial Businesses.

The traffic impact of this business will also be minimal. It is safe to assume the majority of traffic will enter and exit the area via Kimberly Road / Madrona St. However, we do anticipate some traffic to utilize Madrona Street and Elizabeth Blvd to the North. It is not anticipated the traffic increases will significantly affect the surrounding businesses or homes.

**Conclusion:**

Should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to no outside storage of containers or materials associated with this business.
3. Subject to no outside storage of U-Haul rental trucks or rental equipment on this site.
4. Subject to the receiving and delivering of containers/pods via U-Haul trucks and trailers only.

**Attachments:**

1. Narrative
2. Zoning Vicinity Map
3. Aerial Map
4. Applicant Submitted Site Plan
5. Operational Photos – Applicant submitted
6. Building Elevations
7. Site Photos

**From:** Jon Craft <jcraft@bideganeta.com>  
**Sent:** Tuesday, September 29, 2015 9:10 AM  
**To:** Jonathan Spendlove  
**Subject:** Twin Falls U-haul Storage Facility

Jonathan,

A description of the use of the facility being proposed for the storage facility we submitted to you would be as follows:

All of the operations will be done during the hours of operation provided in the form and shown again in this message. The impact to the surrounding community will be negligible. The owner does not foresee any increased volume of traffic associated with this project. Storage pods will be stored inside the building. A truck will pull up to the loading dock. A forklift will unload the pod into the facility and the truck will leave. These pods are made for long term storage so it shall not be a heavy flow of people at all hours of the night accessing a traditional storage unit. Pods are delivered on site loaded on a truck and then unloaded at the facility. Minimal usage and minimal impact.

I am listing the hours of operation again here for your convenience:

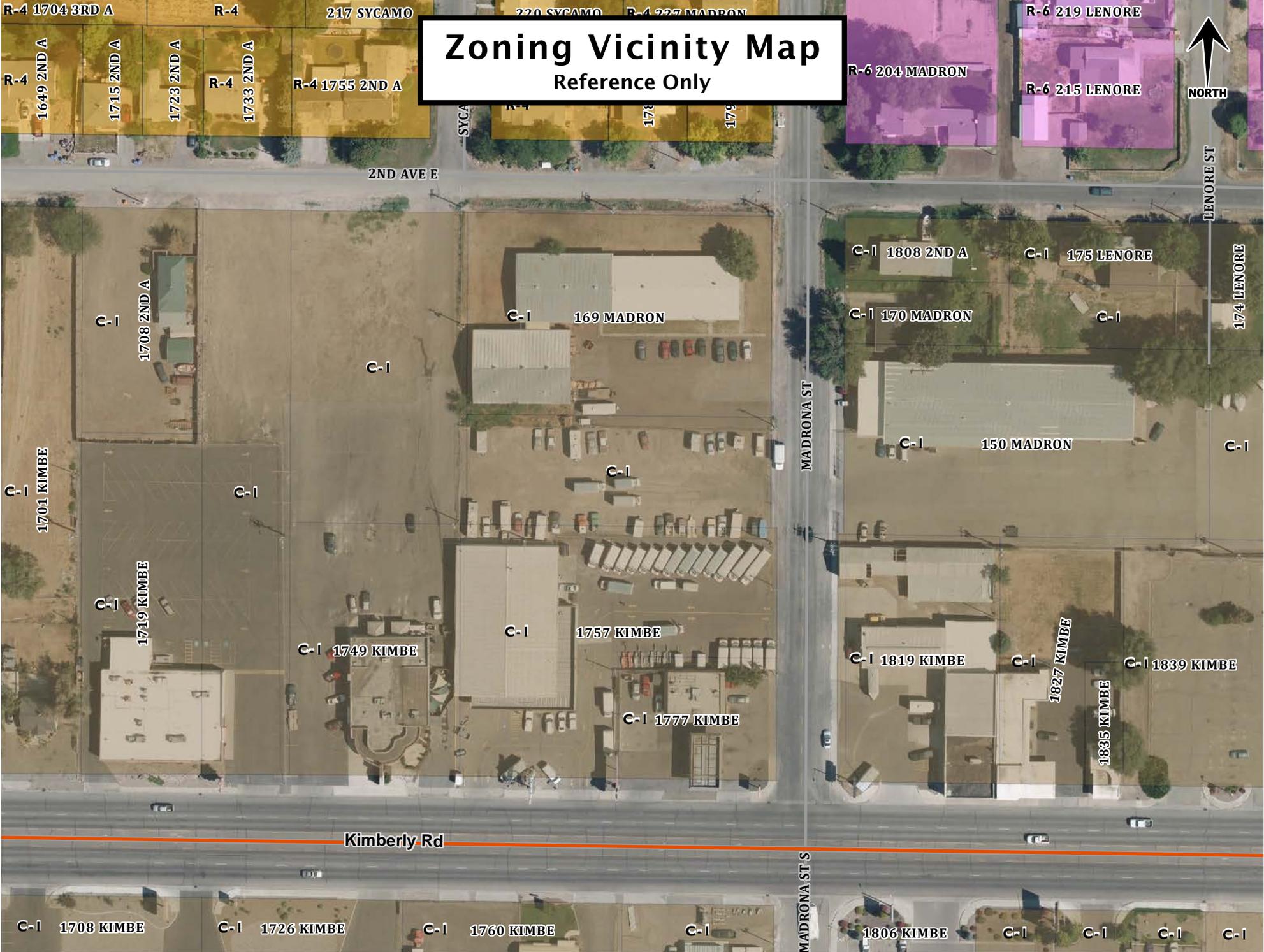
1. Monday-Thursday- 7am-7pm
2. Friday- 7am-8pm
3. Saturday-7am-7pm
4. Sunday-9am-5pm

Please verify with your copy provided yesterday that the Sunday hours match these as these are correct.  
Thank you for your help,

--  
Jon Craft  
Bideganeta Construction Inc.  
2527 Canyon Creek Rd.  
Mtn. Home, Idaho 83647  
(208) 587-5679 Office  
(208) 587-5779 Fax  
(208) 590-4252 Mobile

# Zoning Vicinity Map

Reference Only



# Aerial Photo Map

Reference Only



169 MADRON

MADRONA ST

150 MADRON

1749 KIMBE

1757 KIMBE

1819 KIMBE

1777 KIMBE

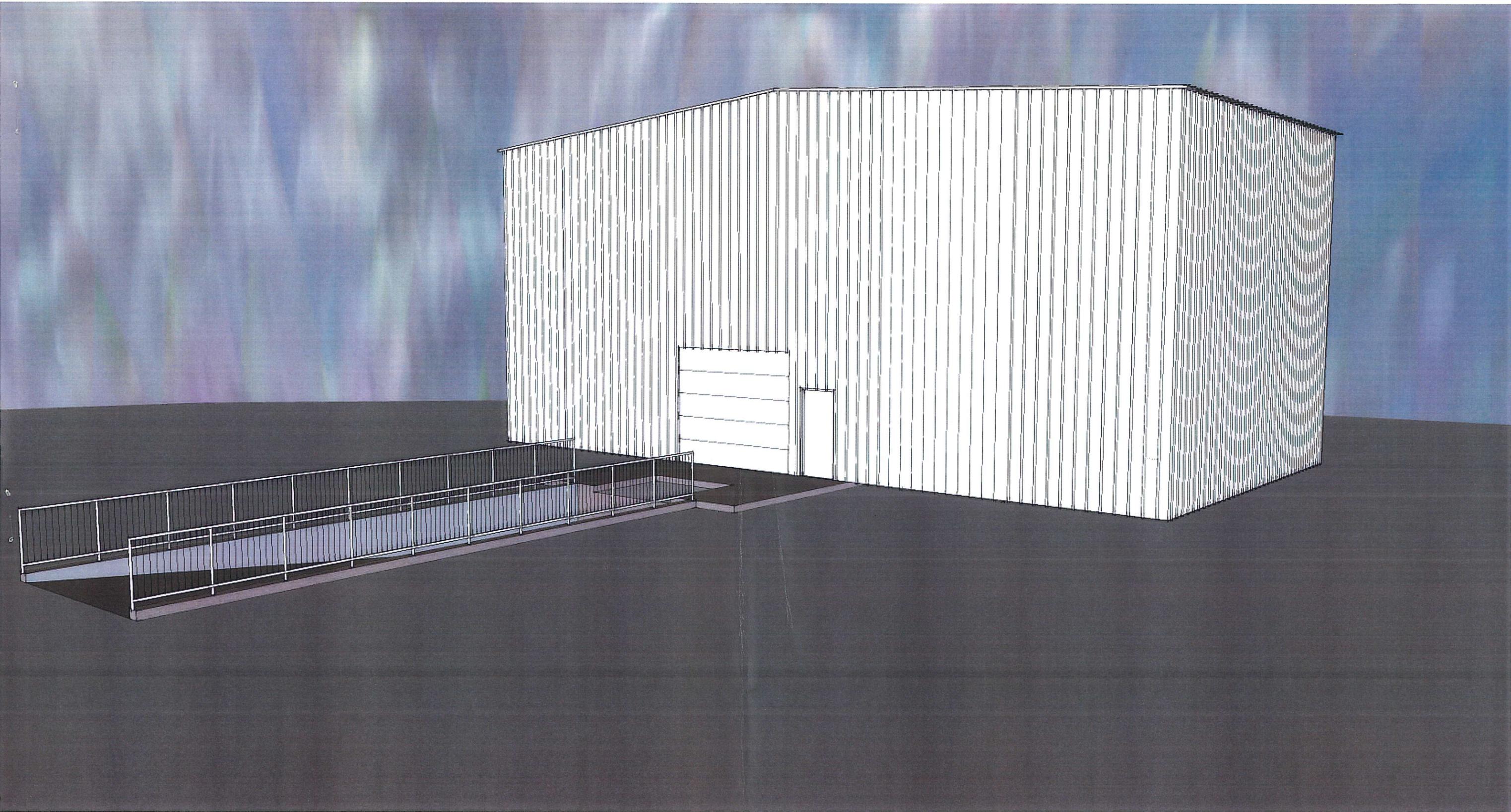


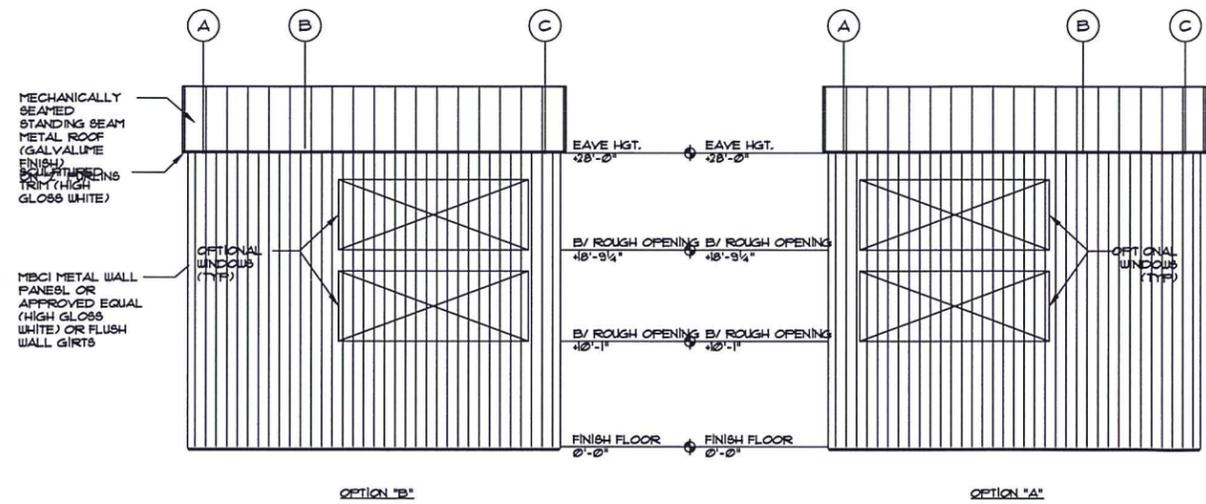




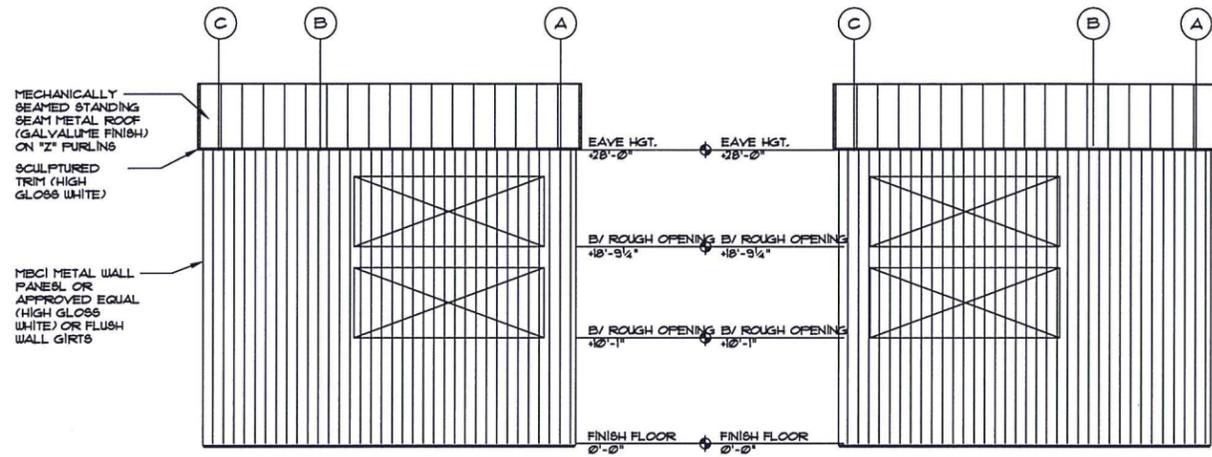


LOWES RENTAL  
**RENT  
ME!**  
AT THE LOWES  
RENTAL  
lowes.com  
1-877-466-4269

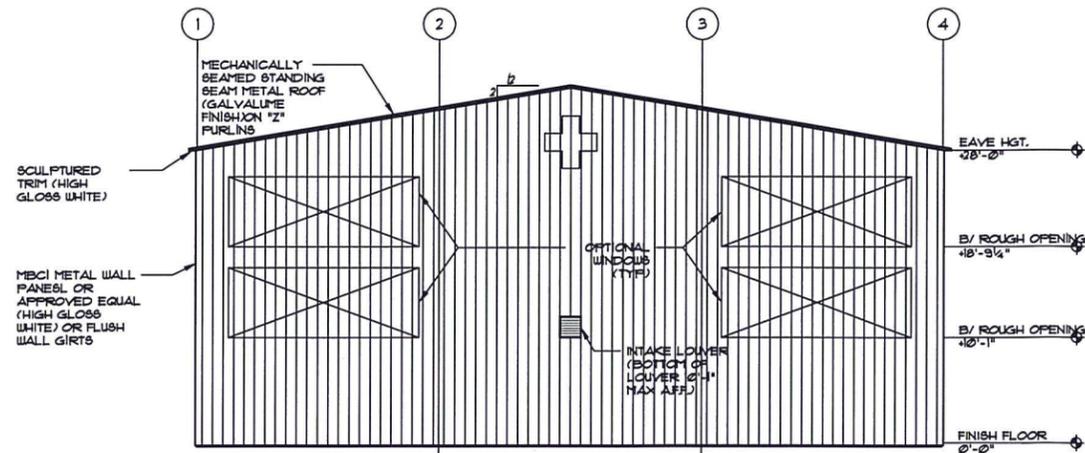




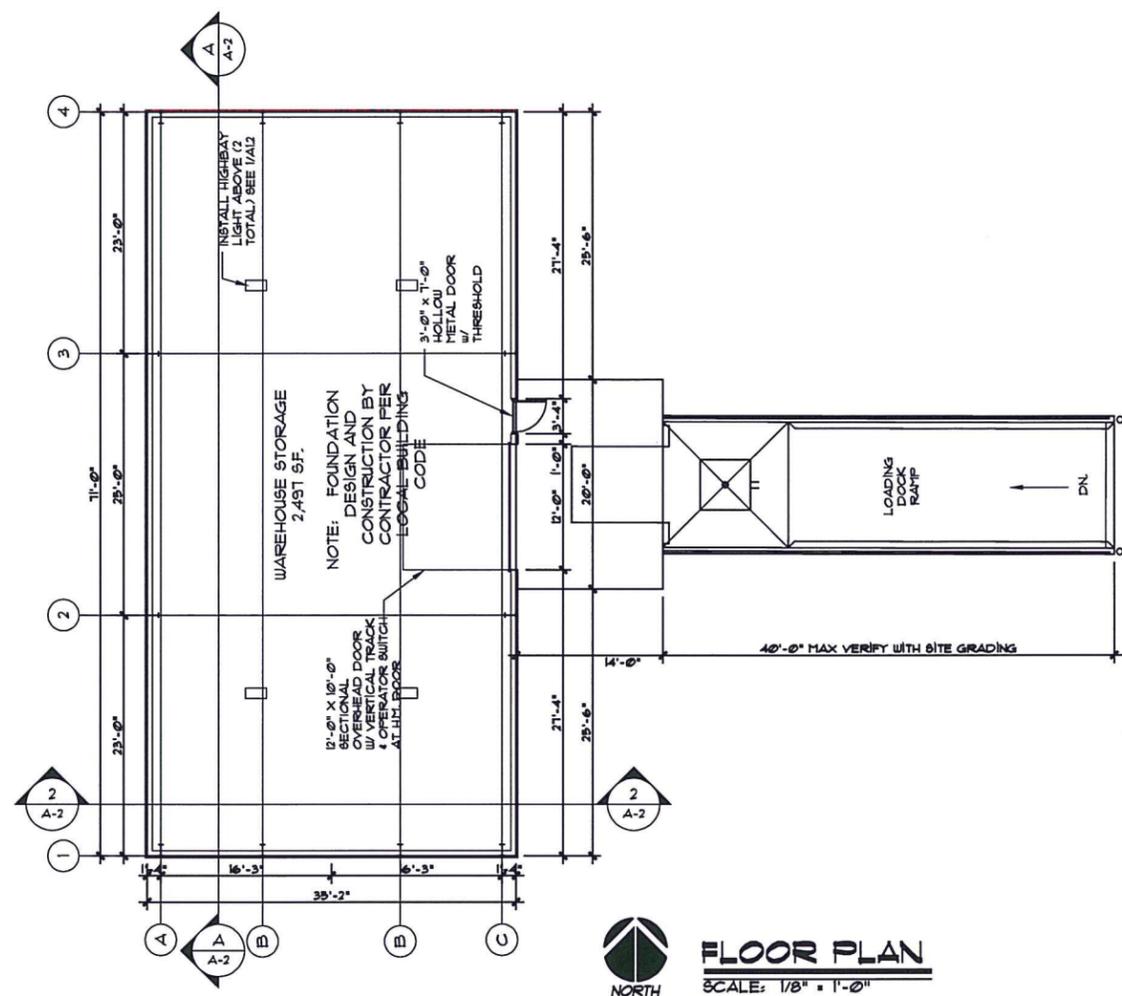
**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0"



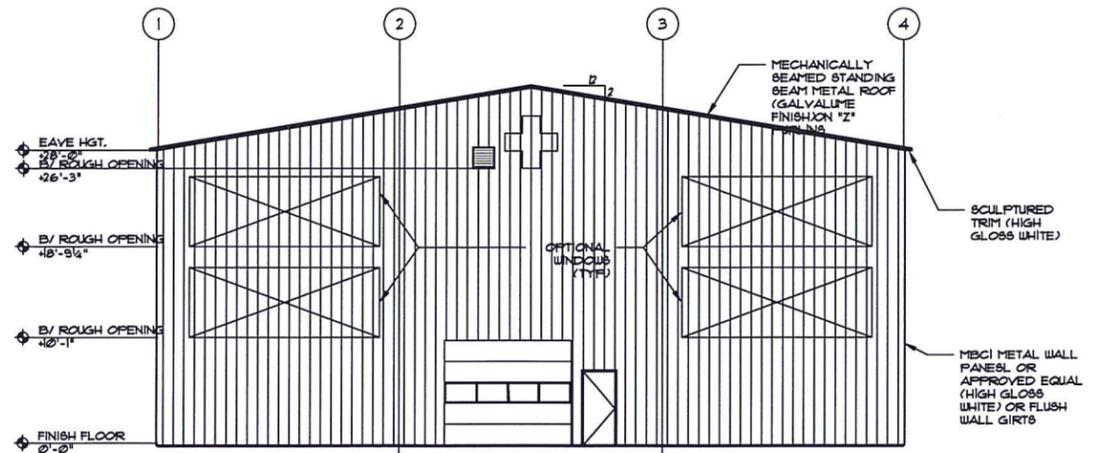
**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/8" = 1'-0"

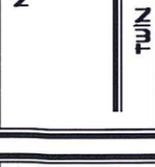
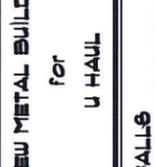
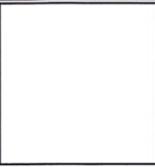
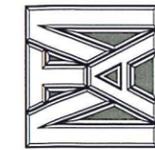


**FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/8" = 1'-0"

Maxeley Tookeley Architects, L.L.P.  
1412 W. IDAHO ST., SUITE 200  
Boise, Idaho 83702  
PHONE: (208) 344-8800  
http://www.mtmaxeley.com

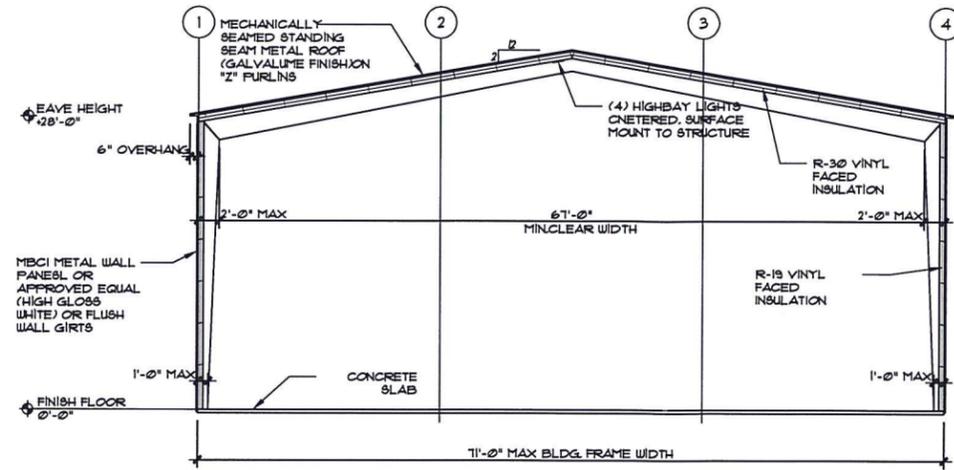


Date: JULY 15, 2015  
Job No. 1406

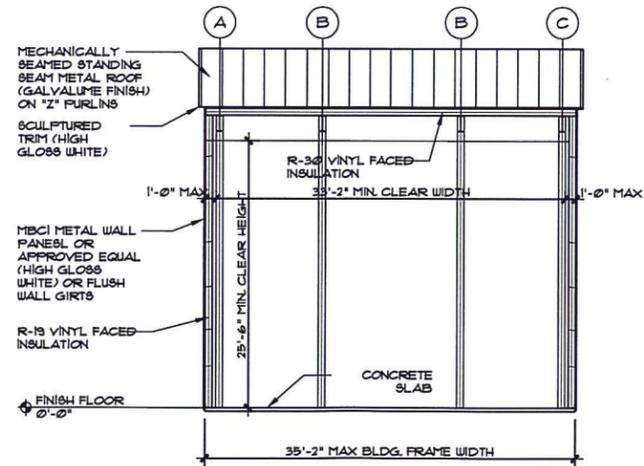
Sheet No.



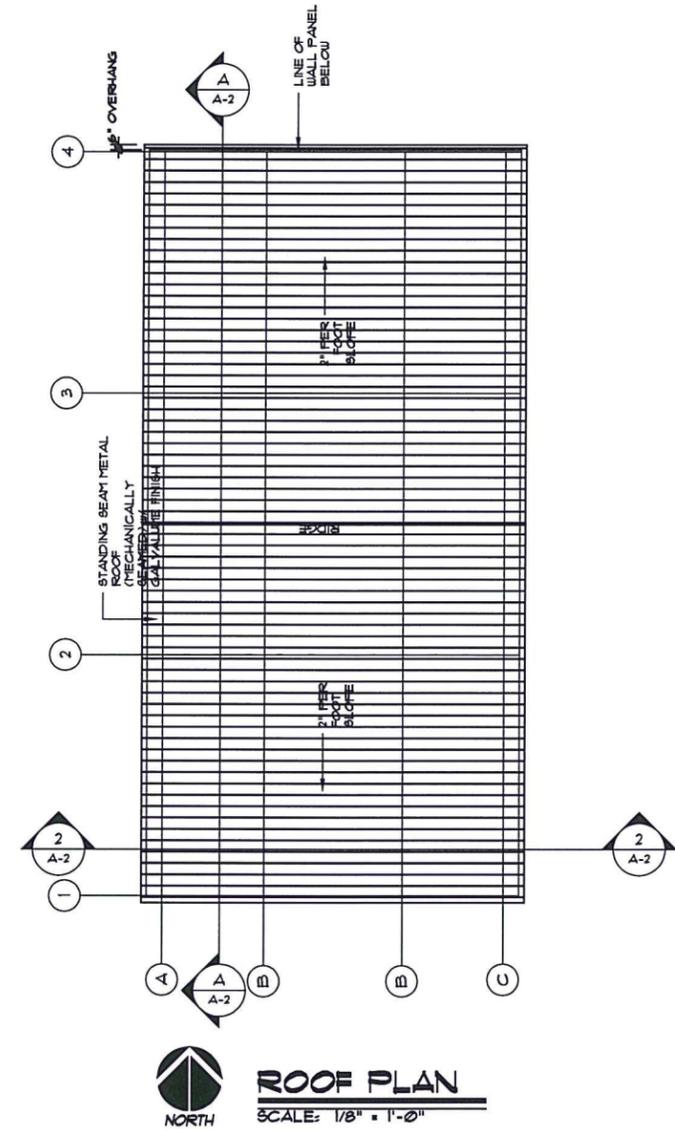
VISUAL CONTACT WITH THESE PLANS SHALL CONSTITUTE PERMISSIBLE REUSE, REPRODUCTION OR PUBLICATION BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED. TITLE TO THESE PLANS REMAINS WITH MAXELEY TOOKELEY ARCHITECTS, L.L.P. THE USE OF THESE PLANS SHALL BE RESTRICTED TO THE ORIGINAL PROJECT SITE FOR WHICH THEY WERE PREPARED AND PUBLICATION THEREOF IS EXPRESSLY LIMITED TO SUCH USE.



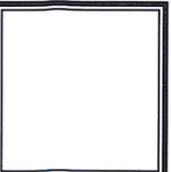
**A**  
A-2  
**BUILDING SECTION**  
SCALE: 1/8" = 1'-0"



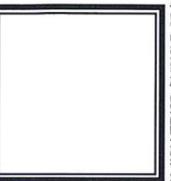
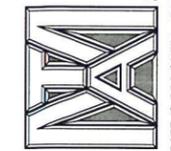
**2**  
A-2  
**BUILDING SECTION**  
SCALE: 1/8" = 1'-0"



**ROOF PLAN**  
SCALE: 1/8" = 1'-0"



Macey Tookee Architects, L.L.P.  
1412 W. IDAHO ST., SUITE 200  
Boise, Idaho 83702  
PHONE: (208) 344-8800  
http://www.mtookee.com



**NEW METAL BUILDING**  
for  
**U HAUL**  
**TWIN FALLS** **IDAHO**

Date: JULY 13, 2015  
Job No. 1409

Sheet No.  
**A = 2**

VISUAL CONTACT WITH THESE PLANS SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE ACCEPTANCE OF THE RESTRICTION RE-USE, REPRODUCTION, OR PUBLICATION BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED. TITLE TO THE PLANS REMAINS WITH MACEY TOOKEE ARCHITECTS, L.L.P. THE USE OF THESE PLANS SHALL BE RESTRICTED TO THE ORIGINAL PROJECT SITE FOR WHICH THEY WERE PREPARED AND PUBLICATION THEREOF IS EXPRESSLY LIMITED TO SUCH USE.



Frontage along Madrona St Proposed use will replace the area shown in picture being used as vehicle storage.

12/03/2015 10:53 AM



12/03/2015 10:54 AM





Public Hearing: **TUESDAY, December 8, 2015**

To: Planning & Zoning Commission

From: Rene'e Carraway-Johnson, Community Development

## AGENDA ITEM IV-3

**Request:** Request for Special Use Permit to operate an indoor recreation facility on property located at 218 Main Avenue North (App 2758) c/o William Snyder, DBA The Typewriter Exchange, LLC

**Time Estimate:**

The applicant's presentation may take up to ten (10) minutes. Staff presentation will be approximately five (5) minutes.

**Background:**

<b>Applicant:</b>	<b>Status:</b> Owner	<b>Size:</b> 3125 sf lot - 2500 sf Bldg.
Typewriter Exchange, LLC William Snyder PO Box 2338 Boise, ID 83701 208-345-3127 208-440-4465 cell <a href="mailto:bill@wrslegal.com">bill@wrslegal.com</a>	<b>Current Zoning:</b> CB P-1	<b>Requested Zoning:</b> SUP – Indoor Recreation Facility
	<b>Comprehensive Plan:</b> Townsite	<b>Lot Count:</b> 1 Lot, (Lot 28 Block 85)
	<b>Existing Land Use:</b> Vacant Commercial Building	<b>Proposed Land Use:</b> Indoor Recreation Facility
<b>Representative:</b>	<b>Zoning Designations &amp; Surrounding Land Use(s)</b>	
Catherine Sewell, A.I.A. dba Platform Architectural Design 1008 S. Johnston Street Boise, ID 83705 208-891-9082 <a href="mailto:csewell@platformarch.com">csewell@platformarch.com</a>	<b>North:</b> CB P1, alley, Commercial Business	<b>East:</b> CB P1; alley/ Commercial Business
	<b>South:</b> CB P1; Main Ave N, Commercial Business	<b>West:</b> CB P1, Commercial Business
	<b>Applicable Regulations:</b> 10-1-4, 10-1-5, 10-4-7.2(B)12d, 10-10, 10-11-1 thru 8, 10-13	

**Approval Process:**

The Special Use Permit process requires a public hearing to be held in which interested persons have the opportunity to be heard with regards to the application.

Within thirty (30) days after the public hearing, the Commission shall approve, conditionally approve, or disapprove the application as presented during the hearing. If conditions are placed on the permit, the Administrator shall issue a special use permit listing the specific conditions specified by the Commission for approval.

If an applicant or interested party appeals the decision of the Commission, the City Council shall set a hearing date to consider all information, testimony and minutes of the previous hearing to reach a decision on the appeal.

**Budget Impact:**

Approval of this request will have marginal impact on the City budget.

### **Regulatory Impact:**

Approval of this request will allow the applicant to operate an Indoor Recreation Facility in conjunction with a mixed use retail business at the location listed above.

**A special use permit is for zoning purposes only.** Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

### **History:**

The location has been zoned CB at least as far back as the 1970's. There is no further zoning history for this location. Current records list the Typewriter Exchange as the latest business occupying this building. The building is currently empty.

### **Analysis:**

The site is located at 218 Main Ave N and is zoned CB; central business with a P1 parking overlay. City Code 10-10-12(A)2 states: *No off street parking is required within the P1 district as designated for outright permitted uses, but may be required through the special use permit required by the commission or council. This provision does not exempt any use from the requirements for off street loading.* The Applicant has provided a detailed narrative outlining the business as it will operate. As this is a change of use a building permit may be required.

Per City Code 10-4-7: Indoor Recreation Facilities are required to obtain a Special Use Permit prior to legally establishing and operating the business. City Code does not currently differentiate between large and small indoor facilities. Nor does City Code currently differentiate between types of Indoor Recreation Facilities. Similar types of business have received Special Use Permits to operate within the CB Zone in the past.

**Possible Impacts:** These types of businesses, as described by the applicant, typically cause minimal impacts. Those impacts commonly involve increase in traffic, and occasionally noise.

The noise impacts do not typically impact neighboring businesses as the operations take place indoors. Occasionally these businesses have music associated with their workout classes. Based on the construction of the building and the surrounding areas being commercial in nature, it is safe to assume the noise impact will be minimal.

The traffic impact can cause issues for existing owners in the area. The offering of yoga or other aerobic classes usually brings a number of people to one location at certain times of the day due to the class setting. However, staff believes there is adequate public parking lots within the area to support the need for current and future businesses. Limited parking is a result of a lively downtown, with patrons visiting shops and conducting business. Although this can produce unique challenges staff believes it is a good challenge to have in the downtown area.

**Conclusion:**

Should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.

**Attachments:**

1. Letter of Request
2. Zoning Vicinity Map
3. Aerial Map
4. Applicant Submitted Site Plan
5. Site Photos

## Supplemental Attachment to Special Use Permit Application

**Note # 1:** Applicant has had several pre-application meetings/contacts with Planning & Zoning Staff, prior to the submission of this Application. They include the following:

- A. On October 5, 2015, Applicant's Architect, Catherine Sewell, contacted P & Z to discuss Applicant's plans to make building improvements in conjunction with a lease between Applicant and Gillian ("Gilly") Funk, who intends to operate **Studio G** at the Site. Ms. Sewell advised staff Planner, Jonathan Spendlove, that the Architect's plans were nearly complete, and would be ready to submit to the Twin Falls Building Department for a permit. Ms. Sewell discussed the nature of Studio G business plans with Mr. Spendlove to make sure there were no zoning issues. Mr. Spendlove then advised Ms. Sewell that he was not sure whether Studio G could operate in the CB District, because he thought the business was a type of "gym," which he advised was not an allowed business in the CB Zoning District.
- B. Applicant's Architect relayed those discussions to Applicant, and Applicant then contacted the City to discuss it further, and was referred to John Laux in the Building Department. John Laux advised Applicant that it was probably Jon Spendlove that Applicant needed to talk to, who was not immediately available. John Laux graciously set up a meeting at the Property site. On October 7, 2015, Applicant traveled to Twin Falls and meet with Jonathan Spendlove and John Laux at the Property Site. Both "Johns" examined the building, were made aware of its historical uses and Studio G's intended uses and that nature of the improvements. Both were advised that the architectural plans for Studio G improvements were ready to be submitted for building permit authority. Applicant expressed his wonderment that any of Studio G business varied business might not be allowed in downtown CB District; and that such a determination might be fatal to the lease agreements between Applicant and Gilly Funk. Mr. Spendlove advised Applicant that he could try to obtain a Special Use Permit from the City to allow Studio G to operate in the CB District. Applicant and staff also discussed the Applicant's concerns about the Special Use Permit process, including delay, and the financial burdens and risks, and that he would have discuss it with Gilly Funk.
- C. After the on Site meeting with staff, Applicant reviewed the City Ordinance describing allowed uses in the **CB – Commercial Central Business District** to try to understand how Mr. Spendlove had reached his opinion that Studio G's use of the Property was not a permitted use in the District. Applicant concluded that the City Ordinance did not factually prohibit any of the intended Studio G uses, when each of those component uses was compared to clearly allowed uses in the CB District. Applicant also observed that the Ordinance contained a specific provision to permit the Planning Director to determine that a site use is allowable in the District if that *"use [sought] is similar enough to a use listed above that the distinction between them is of little consequence."* [10-4-7.2(C)]
- D. Based on that provision in the Ordinance, Applicant again contacted Mr. Spendlove, who confirmed that the Planning Director did have the authority to make a decision that Studio G uses would qualify in the District. Applicant advised Mr. Spendlove that he would proceed

with a request to the Planning Director, because of the extra financial burdens, critical project delays and risk imposed by the Special Use Permit application process. Applicant then prepared a letter to the Planning Director, to fully describe the component Studio G uses, and the reasons why Applicant believed that Studio G should qualify as an allowed business in the CB District. On October 14, 2015, Applicant emailed the request letter to Ranee Carraway, Planning Manager and sent a copy to Jonathan Spendlove. Applicant has never received a response to that letter.

- E. After the lapse of about a week, and with no response to the October 14, 2015 request letter, Gilly Funk contacted the City, and ask for a meeting with staff. That meeting took place on October 20, 2015. She was advised that the Applicants letter was not received by the Planning Director Ranee Carraway, and that the Applicant would have to go through the Special Use Permit process to allow Studio G to operate in the District.

**Note # 2:** To supplement the “proposed use” information sought under Section B.1 of the Application Form, Applicant attaches a copy of the letter Applicant prepared and sent to P & Z Planning Director, Renee Carraway and to Jonathan Spendlove on October 14, 2015.

**Note # 3:** Per the requirements of Section C.1.a. of the Application Form, Applicant attaches a copy of a Warranty Deed vesting title to the Property Site, in the Applicant, to wit: The Typewriter Exchange, LLC.

**Note # 4:** Per the requirements of Section C.2 of the Application Form, Applicant attaches a copy of a LIST of names and addresses of all LEGAL property owners within a 750 boundary of Applicant’s Property. This list was prepared by or at the direction of Title Fact, a title company in Twin Falls, Idaho.

**Note # 5:** Per the requirements of Section C.3 of the Application Form, Applicant attaches a scaled site plan of the Property on an 8 ½’ x 11” paper. Applicant does not propose to construct a new building. The front part of the building is more than 100 years old, and the back part is more than 60 years old, and has been designated on some Twin Falls City publications as an historic building.

**Note # 6:** Per the requirements of Section C.4.a. of the Application Form, Applicant believes this request should not have been necessary. But has been made necessary because Twin Falls has not updated allowed uses in the CB District since 1996, and because the Planning Director decided to not exercise the authority granted to her by the Ordinance. Applicant strongly believes that Studio G’s use should be an allowed use in the CB District and in the modern world, businesses providing Studio G types of services, should be downtown for the mutual commerce benefits to other businesses in the District.

**Note # 7:** Per the requirements of C.4.b. (i) of the Application Form, the general hours of operation for Studio G uses are identified in the Applicant’s October 14, 2015 letter to the Planning Director. But, the componentry of Studio G’s varied business uses will require some additional flexibility in operational hours. In her Personal Training business and the professional service nature of that business, Studio G has to work with the schedules of the clients. Hence there will be occasions where client appointments will be set before 8:00 am and after 5:00 pm, and on weekends, to give “traditional 8 to 5” workers the opportunity to get into a personal training regimen. Likewise some of the Yoga and aerobics classes will be evening and weekend classes.

Per the requirements of C.4.b. (ii) of the Application Form, the traffic generated by Studio G's use will follow the hours of operation. But Studio G will not generate any significant amount of vehicular traffic in the District and certainly not as much as most of the allowed use businesses. Generally, Studio G will personally train about 4 to 6 clients a day, and will conduct 4 to 6 exercise classes (Yoga, dance aerobics and other class disciplines) per week. Those classes will be available for groups of 5-12 persons at a time. Significantly, most all client sessions are set for periods of one-half hour to one hour.

Additionally, Main Avenue is not burdened with traffic or traffic congestion. And, although there is more vehicular traffic on the north side of Main Avenue than there was two years ago, (and that is a good thing) there is still far less traffic on Main Avenue than it was designed to handle; and considerably less traffic than there was when Applicant grew up in Twin Falls, and watched the Main Avenue traffic around Snyder's Office Equipment, more than 50 years ago. Frankly, the problem on Main Avenue is not too much traffic, it is not enough of the right kind of traffic to make it the vibrant street it once was.

Studio G also hopes and expects that many of her clients and customers will come from their downtown work places, and that some will choose to walk, jog or bike to her Studio G training sessions. It is anticipated that the types of individuals seeking the types of services that Studio G wants to provide, will be types that are more inclined to walk, jog or bike to the downtown. But even if 100% of them arrive and depart by automobile, Studio G's business won't create a traffic burden, in part because she will be limited to the number of clients the building will service, and in part because sessions will be of short duration and spread out during the day.

If, by traffic, the Application Form seeks information about Parking, Studio G will not add any significant parking burden to the CB District, and substantially less than most allowed business uses might create. And, an allowed business in the parking overlay for this Site is not required to provide off street parking. Although a person might not be able to always find a parking stall directly in front of the customer's precise business of interest in the 200 block of Main Avenue North, that too is a good thing. It means there is **some** renewed interest in business activity. Applicant has always found an available parking stall in this block. Furthermore, Applicant has walked the Site area - within a 3 block radius - and found numerous on street parking spaces available, and several under-utilized off street parking lots. Furthermore, Studio G varied business customers are the perfect profile for CB District parkers. They will generally be using a parking place for an hour or less, unlike theater goes and restaurants users who may be using business parking spaces for hours. Finally, Applicant has been contacted by a representative of Urban Renewal and was advised that it had or intended to acquire a substantial portion of the property directly behind the Site Property, with the specific intent to create a very large off street parking area.

Per the requirements of C.4.b. (iii) of the Application Form, it is hard to anticipate the number and type of employees that Studio G will eventually need. One can only hope than it will be more than anticipated. However, Gilly Funk intends to begin operations as the sole professional Trainer, and to as the business proprietor and with the aid of one part time employee. She intends to conduct the Yoga, and other class disciplines, by contracting with certified instructors, and she anticipates contracts with 4 to 5 of those instructors. But, Studio G will be set up to only accommodate one class at a time, and therefore on most occasions, there will only be one certified class instructor on site per class session.

Significantly, the Site does have two off street parking spaces accessible from the alley, and those will be available to Gilly, and her employee or to the contract instructors. By comparison, there are no off street parking spaces for the salon business next door, nor do most of the existing storefront businesses on Main

Avenue North. Those businesses have no off street parking for employees or staff. Studio G will have two off street parking spaces for the proprietor and instructors.

Note # 8: Per the requirements of C.4.c. (i) of the Application, [noise], the operations of Studio G will not create or add any significant noise burden on adjoining properties. The Personal Training business will not add any. Although there may be some music played during Yoga and other class disciplines, this music will be the type that is consistent with those disciplines, and it will be played only loud enough to help add to the spirit of the discipline; it will not be gratuitous noise and it will be very short in duration. Furthermore, some of the improvements contemplated will add noise insulation to the building, such as new wall coverings – (sheetrock overlay,) new sound absorbing flooring on existing concrete subfloors and strategic insulation in certain walls and in certain ceiling areas. The property to the south is a church facility, and is rarely occupied by except on Sunday services. Studio G classes can be scheduled to avoid a conflict with church services, if unexpected noise transfer should become an issue. The property to the north, is a hair/beauty salon business, and most of their operations are located near the front of that building, and away from the from Studio G’s class disciplines.

Per the requirements of C.4.c (ii) of the Application Form, Studio G uses will not produce Glare. The interior lighting in the back (class area) studio will not be seen from Main Avenue. The lighting in Gilly’s Studio 1 will be muted and localized for the requirements of personal training, and that studio will be sheltered for client privacy. The lighting for her retail section will be moderate and cause less Glare than most allowed District uses.

Per the requirements of C.4.c (iii) of the Application Form, Studio G will not produce Odor. The temporary sweat of the clients and trainees will be ventilated and disbursed by exhaust fans and replacement air will be handled by the existing HVAC system; and that system has been reviewed by the vendor-installer and approved for Studio G’s uses.

Per the requirements of C.4.c (iv) of the Application Form, Studio G uses will not produce Fumes or any significant vibrations on adjoining property. Yoga and exercise classes will be conducted in the back studio, and that flooring will be a vinyl overlay on a concrete subfloor slab; and concrete slab subfloors do not readily transfer vibration. There will be some pieces of training equipment which could produce minor amounts of vibration, but they are designed to reduce vibration and impact, but the flooring materials in the front studio have been selected specifically to absorb vibration.

Per the requirements of C.4.c. (v) of the Application Form, Studio G will certainly not be incompatible with surrounding businesses. Studio G hopes to create a business that will attract business customers to the CB District, especially those customers who might otherwise go to the malls and strip-malls, where there is traffic congestion. At Studio G we hope a client will attend a personal training session and the shop for a lamp, because they feel better and are enthused. We hope a person will finish a yoga class and then walk to a café for an iced tea or to go to a downtown drug store and pick up a get well card, for those who should have attended a class. Or go next door, before or after a session at Studio G, and get their hair styled. Applicant thinks that having one’s hair coifed is not incompatible with having one’s muscles look good and giving one’s heart some special attention.

It is difficult to understand what Twin Falls intends to achieve with the issue of business compatibility on its Application form. Less than 50 feet away from the Applicants Site is a Karate Gym. And, the City approved the location of a church right next to the Applicant’s building. That building was once the home

of a major furniture business in Twin Falls, and brought lots of customers to the CB District. Meaning no disrespect to those members of that church or to any religion or church, but the traditional nature of a church is the theoretical antithesis of commercial business. In the 200 block of Main Avenue N. there are also two school administration offices, which are also not traditional businesses. And, there are many vacant buildings which are truly incompatible with Commercial Business. Not approving the Applicants request will likely mean that the most compatible feature it will share with many sites in the CB District, will be a vacancy factor.

Most importantly, if the City intends to facilitate downtown living, and to promote urban dwelling projects, those type of residents will want a Studio G to go to train and exercise; just like they will want delis, café's, culture and entertainment – without having to drive to a mall to get those services. THE APPLICANTS REQUEST SHOULD BE GRANTED.

# Zoning Vicinity Map

Reference Only



C-B 302 MAIN A

232 2ND AV

C-B 225 3RD AV

C-B 319 MAIN A

C-B 202 2ND AV

FAIRFIELD

C-B

264 MAIN A

C-B 241 2ND AV

C-B 301 MAIN A

C-B 250 MAIN A

C-B 229 2ND AV

MAIN AVE W

242 MAIN A

238 MAIN A

236 MAIN A

C-B 226 MAIN A

222 MAIN A

218 MAIN A

GOODING ST N

C-B 241 SHOSHO

C-B

132 FAIRFI

FAIRFIELD ST W

C-B 249 MAIN A

C-B 251 MAIN A

C-B 229 MAIN A

MAIN AVE N

C-B 204 MAIN A

C-B 161 2ND AV

C-B 155 2ND AV

140 2ND AV

C-B 260 2ND AV

C-B 248 2ND AV

C-B

C-B 201 MAIN A

221 MAIN A

164 MAIN A

160 MAIN A

C-B 156 MAIN A

C-B 146 MAIN A

C-B 140 MAIN A

C-B 136 MAIN A

124 MAIN A

C-B

C-B

C-B

253 2ND AV

C-B

228 2ND AV

C-B

160 GOODIN

212 2ND AV

161 MAIN A

C-B

153 MAIN A

151 MAIN A

147 MAIN A

139 MAIN A

C-B

125 MAIN A

C-B 156 MAIN A

C-B 146 MAIN A

C-B 140 MAIN A

C-B 136 MAIN A

124 MAIN A

C-B 116 MAIN A

110 MAIN A

106 MAIN A

102 MAIN A

133 SHOSHO

C-B 201 2ND AV

C-B 156 2ND AV

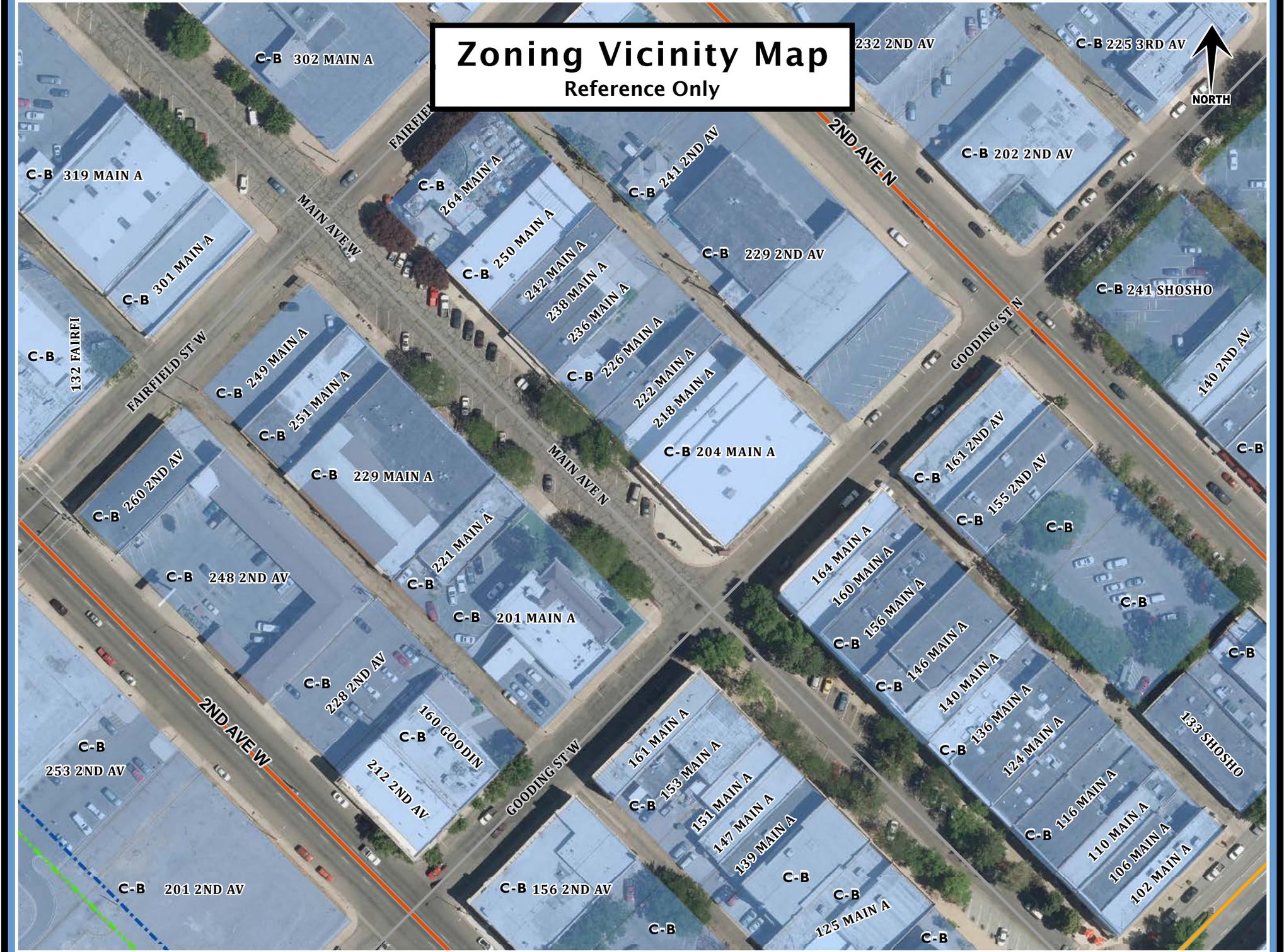
C-B

C-B

C-B

2ND AVE W

2ND AVE N



# Aerial Photo Map

Reference Only



264 MAIN A

250 MAIN A

242 MAIN A

238 MAIN A

236 MAIN A

226 MAIN A

222 MAIN A

218 MAIN A

204 MAIN A

MAIN AVENUE

MAIN AVENUE

229 MAIN A

221 MAIN A

201 MAIN A

229 2ND AV

GOODING ST N

164 MAIN A

160 MAIN A

156 MAIN A

161 2ND AV

**OWNER:**

THE TYPEWRITER EXCHANGE, LLC  
CONTACT: BILL SNYDER  
PO BOX 961  
BOISE, ID 83702  
T: 440 4465

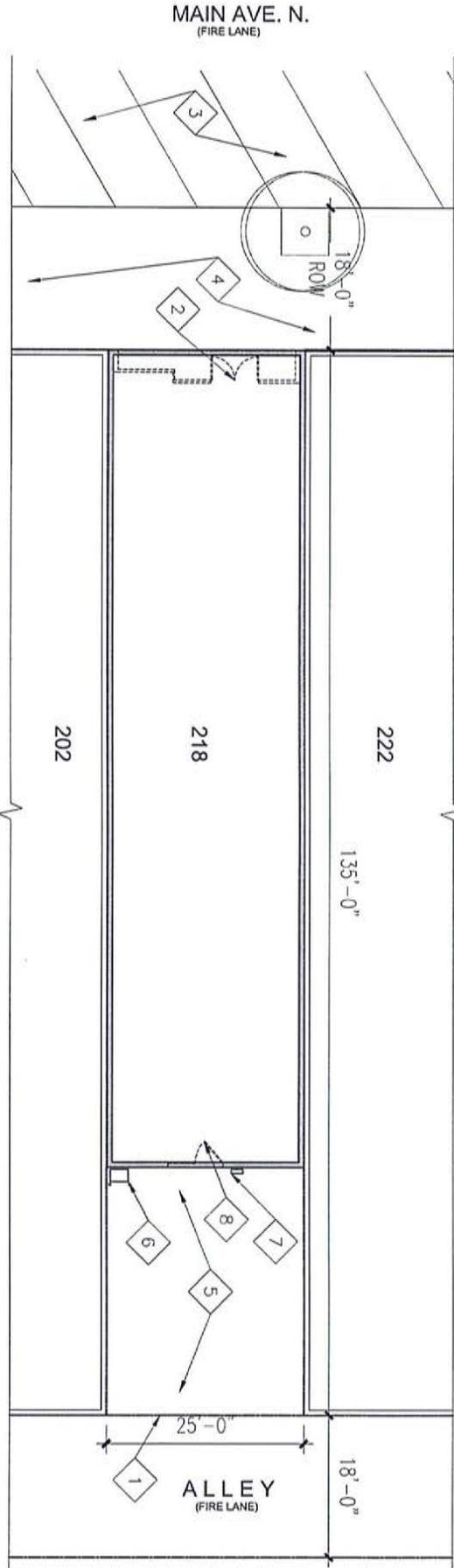
**PROJECT DATA:**

LAND USE ZONE: CB  
LEGAL DESCRIPTION:  
LOT 28, BLOCK 85  
TWIN FALLS TOWNSITE  
TWIN FALLS COUNTY, IDAHO  
LOT SIZE: 3,125 SF  
BUILDING AREA: 2,500 SF

**SHEET NOTES:**



1. PROPERTY LINE.
2. EXISTING FRONT ENTRANCE.
3. EXISTING PUBLIC PARKING AREA.
4. EXISTING SIDEWALK/STREETSCAPE.
5. EXISTING PARKING AREA (2 VEHICLES)
6. EXISTING GAS METER.
7. EXISTING ELECTRICAL PANEL.
8. EXISTING REAR ENTRANCE.



SPECIAL EXCEPTION USE PERMIT  
218 MAIN AVE. N TWIN FALLS, IDAHO

TITLE: SITE PLAN

SCALE: 1:20

29 OCTOBER 2015



Frontage along Main Ave N. Business shown on the left is a Beauty Salon. The space on the right is currently vacant.

12/03/2015 10:59 AM



Businesses across Main Ave. The School District Office is out of the frame on the left.

12/03/2015 10:59 AM



Frontage along Main Ave North looking towards Washington St (NW)

12/03/2015 10:59 AM



Frontage along Main Ave North looking towards Shoshone St (SE)

12/03/2015 11:00 AM





Public Hearing: **TUESDAY, December 8, 2015**

To: Planning & Zoning Commission

From: Rene'e V. Carraway-Johnson, Zoning & Development Manager

## AGENDA ITEM IV-4

**Request:** Request for the Commissions' recommendation on an amendment to Title 10; Chapter 7; Section 14: by redefining the area prohibited for the outside storage or display of merchandise and defining the term "primary business building". c/o City of Twin Falls (app. 2757)

**Time Estimate:**

Staff presentation will be approximately five (5) minutes.

**Background:**

<b>Applicant:</b>	
City of Twin Falls Planning and Zoning Department P.O. Box 1907 324 Hansen St E Twin Falls, Idaho 83303 208-735-7267	<b>Requested Zoning:</b> Amendment to Twin Falls City Code – Title 10; Chapter 7; Section 14; Outside Storage and Display
<b>Representative:</b>	
	<b>Applicable Regulations:</b> 10-7-14, 10-14-1 through 7

**Approval Process:**

All procedures will follow the process as described in TF City Code 10-14: Zoning Amendments.

Zoning Title Amendments, which consist of text or map revisions, require a public hearing before the Planning Commission. Following the public hearing, the Commission may forward the amendment with its recommendation to the City Council. Any material change by the Commission from what was presented during the public hearing will require an additional hearing prior to the Commission forwarding its recommendation to the Council.

After the Council receives a recommendation from the Commission, a public hearing shall be scheduled where the Council may grant, grant with changes, or deny the Zoning Title Amendment. In any event the Council shall specify the regulations and standards used in evaluating the Zoning Amendment, and the reasons for approval or denial.

In the event the Council shall approve an amendment, such amendment shall thereafter be made a part of the Title upon the passage and publication of an ordinance.

**Budget Impact:**

Approval of this request will have negligible impact on the City budget.

**Regulatory Impact:**

A recommendation from the Planning and Zoning Commission on the proposed Zoning Title Amendment will allow the request to proceed to the City Council.

**History:**

The City Council approved Ordinance 2012 on July 6, 1981 which replaced Twin Falls City Code - Title 10; Zoning & Subdivision Regulations in its entirety.

Ordinance 3005 was approved in June 2011 which made changes to references in Twin Falls City Code - Title 10; Chapter 4: Zoning Designations, as well as various definitions in Title 10; Chapter 2: Definitions.

**Analysis:**

This is a request made by the City of Twin Falls. The purpose of this request is to clarify the identified Code Section. Specifically, the manner in which the code is applied to areas where commercial businesses may place outside merchandise.

The amendment removes a slight ambiguity within the code in regards to the "adjacent sidewalk of a primary business". The amendment further defines what the definition of "primary business" includes.

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

**Possible Impacts:** If approved, this Code Amendment would not remove the ability for businesses to display merchandise. It will limit the merchandise to a specific area. However, there are other avenues to displaying merchandise beyond the new limits defined in this amendment. Businesses may apply for a "Parking Lot Sale Permit" which allows for merchandise to be displayed in the parking areas during special events or promotions.

Staff feels this amendment to the City Code would clarify and more accurately define the intent of Section 10-7-14: Outside Storage and Display

**Conclusion:**

The Commission may recommend to the City Council that the amendment be granted as requested, or it may recommend a modification of the amendment requested (which will require another public hearing before the Commission), or it may recommend that the amendment be denied.

**Attachments:**

1. Proposed Amendment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE 10-7-14 BY REDEFINING THE AREA PROHIBITED FOR THE OUTSIDE STORAGE OR DISPLAY OF MERCHANDISE.

WHEREAS, The outside storage and/or display of merchandise in front of businesses can interfere with the flow of traffic and parking, cause unsafe distracted driving on adjoining streets, and present an undesirable cluttered appearance in the community.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

“10-7-14: OUTSIDE STORAGE AND DISPLAY:

No outside storage or display of merchandise is allowed ~~beyond the front sidewalk adjacent to the~~ between any street and the primary business building or outside of screened areas except in the M2 zoning district and except for the display of vehicles, motor homes, travel trailers, recreational vehicles, pickup shells and large implements where offered for sale or rent and except for the seasonal display of living plants and materials such as Christmas trees, pumpkins, bedding plants, etc. The term “primary business building” shall include any paved pedestrian area adjoining the building and parallel to any portion of the building facing the street. All refuse areas shall also be visibly screened from adjacent streets and properties.

(A) Notwithstanding the above outside display restriction, a retail business may apply for a "parking lot sale" permit for the temporary outside display of retail merchandise.

Parking lot sale permits are subject to the following conditions:

1. Up to eight (8) temporary parking lot sale permits shall be allowed on a lot or parcel in a calendar year, with not more than two (2) per quarter.
2. A parking lot sale permit shall be issued for not more than five (5) consecutive days. Parking lot sale permits issued in different calendar year quarters shall have a minimum of seven (7) days between permits.
3. Retail merchandise may only be temporarily displayed on private real property and only on the same lot, parcel or shared parking as the primary business building to which the parking lot sale permit has been issued.
4. Retail merchandise shall not be temporarily displayed within required landscape areas or in any other area that creates a site obstruction or other traffic obstruction or hazard.

5. Retail businesses that share a lot, parcel or parking with other businesses may apply for a parking lot sale permit if a parking lot sale site plan has been prepared by the applicant and the site plan has been approved by an authorized representative of each business sharing the same lot, parcel, or parking. Approval signatures shall be provided to the planning department with the permit application along with name and contact information for the authorized representatives who provided the approval.

(B) Parking lot sale permit applications shall be submitted to the planning department not less than two (2) weeks prior to the planned parking lot sale. The administrator may approve parking lot sale permit requests that comply with the standards contained herein.”

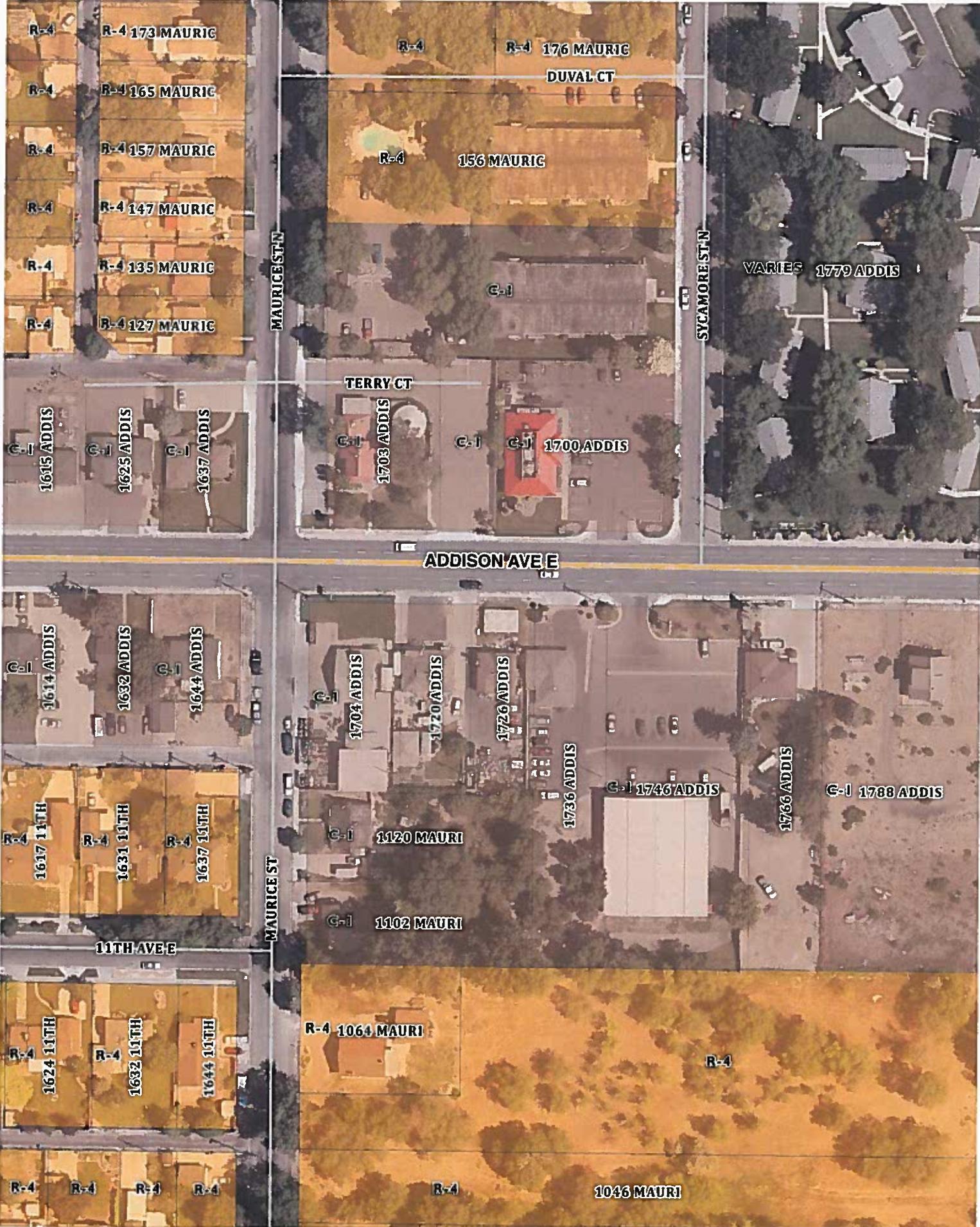
PASSED BY THE CITY COUNCIL, \_\_\_\_\_, 2015.

SIGNED BY THE MAYOR \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
DEPUTY CITY CLERK



R-4 173 MAURIC  
R-4 165 MAURIC  
R-4 157 MAURIC  
R-4 147 MAURIC  
R-4 135 MAURIC  
R-4 127 MAURIC

MAURICE ST N

R-4 176 MAURIC  
DUVAL CT  
R-4 156 MAURIC

SYCAMORE ST N

VARIES 1779 ADDIS

C-1 1615 ADDIS  
C-1 1625 ADDIS  
C-1 1637 ADDIS

TERRY CT  
C-1 1703 ADDIS  
C-1 1700 ADDIS

ADDISON AVE E

C-1 1614 ADDIS  
C-1 1632 ADDIS  
C-1 1644 ADDIS

C-1 1704 ADDIS  
C-1 1720 ADDIS  
C-1 1726 ADDIS

1736 ADDIS

C-1 1746 ADDIS

1766 ADDIS

C-1 1788 ADDIS

R-4 1617 11TH  
R-4 1631 11TH  
R-4 1637 11TH

MAURICE ST

C-1 1120 MAURI  
C-1 1102 MAURI

11TH AVE E

R-4 1624 11TH  
R-4 1632 11TH  
R-4 1644 11TH

R-4 1064 MAURI

R-4

R-4 R-4 R-4 R-4

R-4

1046 MAURI

Nope

DISTRICT COURT  
TWIN FALLS CO. IDAHO  
FILED

2015 JAN -5 PM 4: 42

BY \_\_\_\_\_  
CLERK

\_\_\_\_\_  
DEPUTY

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

STATE OF IDAHO, )  
)  
Plaintiff-Respondent, )  
)  
vs. )  
)  
ELAINE KRISTINE BOWMAN, )  
)  
Defendant-Appellant. )  
)  
\_\_\_\_\_ )

Case No. CR-2013-12012

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**MEMORANDUM OF DECISION ON APPEAL**

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On December 16, 2014, oral argument was held on the appeal in the above entitled matter. Elaine Bowman, Appellant, appeared personally with counsel, Kirk A. Melton. Shayne T. Nope, City of Twin Falls Deputy Prosecutor, appeared on behalf of the Respondent. The Court, having considered the briefs, record on appeal, and the arguments of counsel, took the matter under advisement for a written decision.

## I.

### FACTUAL AND PROCEDURAL HISTORY

On October 25, 2013, Bowman held a yard sale at her business, the Management Company. The commercial entrance to the Management Company is located to the rear of the building facing away from the city street. The portion of the business that faces the city street has a concrete path which runs parallel to the building and leads from the property's vertically situated driveway to one of the business building's doors. In front of the path, towards the street, the property is covered in grass. This lawn adjoins the city sidewalk; the city sidewalk is then parallel and adjacent to the city street. The good for sale at issue were placed on the property's grass between the business building's walkway and the city sidewalk.

Following a complaint by a private party, the City's Code Enforcement Coordinator cited Bowman on December 30, 2013 in a criminal complaint for violation of Twin Falls, Idaho City Code 10-7-14: "Outside Storage and Display." The statute reads in relevant part: "No outside storage or display of merchandise is allowed beyond the front sidewalk adjacent to the primary business building...."

Bowman was convicted of the alleged violation following a jury trial on April 2, 2014. Thereafter, on May 21, 2014, Bowman moved for a judgment of acquittal pursuant to I.C.R. 29, arguing that: (1) the evidence was insufficient to support the jury's guilty verdict and (2) the code was void for vagueness as applied. The magistrate court denied the motion.

Bowman appeals the denial of her motion, and asserts in the alternative that she is entitled to a new trial based on the Magistrate Court's cumulative errors during trial.

## II.

### ISSUES

1. Is the jury's verdict that the Bowman violated Twin Falls, Idaho City Code 10-7-14 for displaying merchandise beyond the front sidewalk adjacent to her primary business building supported by substantial and competent evidence?
2. Is Twin Falls, Idaho City Code 10-7-14 void for vagueness as applied to Bowman?
3. Does the cumulative effect of the Magistrate Court's alleged errors require the judgment to be vacated and the case remanded for a new trial?

## III.

### ANALYSIS

#### A. Motion for judgment of acquittal based on insufficient evidence

##### a. Standard

The district court, acting in its appellate capacity, uses the same standards of review as an appeal from district court to the Idaho Supreme Court. Idaho Crim. R. 54.17. In reviewing the denial of a motion for judgment of acquittal, a jury verdict supported by substantial and competent evidence will not be set aside. *Hurtado v. Land O'Lakes, Inc.*, 153 Idaho 13, 17, 278 P.3d 415, 419 (2012). "[T]he appellate court must independently consider the evidence in the record and determine whether a reasonable mind would conclude that the defendant's guilt as to each material element of the offense was proven beyond a reasonable doubt." *State v. Carlson*, 134 Idaho 389, 394-95, 3 P.3d 67, 72-73 (Ct. App. 2000). Where a defendant stands convicted, the evidence is viewed in the light most favorable to the prosecution on appeal. *Garrett Freightlines, Inc. v. Bannock Paving Co., Inc.*, 112 Idaho 722, 726, 735 P.2d 1033, 1037 (1987).

Thus the verdict must be upheld if the evidence is such that a reasonable fact finder—considering all relevant evidence in the light most favorable to the State—could accept it to support the jury’s verdict.

*b. Statutory Interpretation of Twin Falls, Idaho, City Code 10-7-14*

Bowman’s first claim on appeal is one of statutory construction. Though the standard for upholding a jury’s verdict is one of substantial and competent evidence, the court reviews questions of law *de novo*. *In re Estate of Peterson*, No. 40615, 2014 WL 3934168, at \*2 (Idaho Aug. 13, 2014). Statutory interpretation is a question of law. *Id.*

The objective in interpreting a statute is to ascertain and give effect to the purpose and intent of the legislature. *Mulder v. Liberty Nw. Ins. Co.*, 135 Idaho 52, 57, 14 P.3d 372, 377 (2000). A court begins statutory interpretation by examining the statute’s literal words. *In re Estate of Peterson*, WL 3934168, at \*2. Where the language is plain and unambiguous the court simply gives effect to the statute as written. *Id.* When the legislature fails to define a statutory term the court construes the term to mean its commonly understood, everyday meaning. *State v. Richards*, 127 Idaho 31, 38, 896 P.2d 357, 364 (Ct. App. 1995) (citing *Ada County Assessor v. Roman Catholic Diocese*, 123 Idaho 425, 849 P.2d 98 (1993)). In determining the commonly understood, everyday meaning of statutory terms, our courts consistently consult and adopt dictionary definitions. *See, e.g., Richards*, 127 Idaho at 38, 896 P.2d at 364 (opinion citing to *Webster’s Third International Dictionary* for definition of statutory terms).

In contention here is Twin Falls, Idaho City Code 10-7-14 “Outside Storage and Display,” which states: “No outside storage or display of merchandise is allowed beyond the front sidewalk adjacent to the primary business building....” The Zoning and Development

Manager for the City of Twin Falls, Renee Carraway, testified at trial as to the purpose of the ordinance: “[T]hat ordinance is to[] prevent commercial businesses from putting merchandise in their parking lots and [] preventing customers from parking.” Tr. T. 41:14-16. She further testified that, “[The] ordinance was adopted in the late Nineties, and it was due to the impacts of commercial businesses along the major corridors [] displaying their merchandise out on the parking lots. It made it difficult for traffic to go in and out of properties and [it] took over parking lots.” Tr. T. 42:1-5.

The parties agree that the word “sidewalk” is the crux of the issue. In fact the jury had a question as to the definition of the term sidewalk and they were instructed by the trial court that they should use “the common meaning” of the term. The Oxford Dictionary defines “sidewalk” as “a paved path for pedestrians at the side of a road.”<sup>1</sup> Similarly, Merriam-Webster defines “sidewalk” as “a usually paved walk for pedestrians at the side of a street.”<sup>2</sup> Thus the ordinary meaning of “sidewalk” is a pedestrian path at the side of a road or street. Clearly the path in issue here sits adjacent to the property’s lawn and business; it is not situated along the side of a road or street. Further, the ordinance only requires that the “sidewalk” be “adjacent” to the building and not “adjoining”. The term “adjacent” means “close or near” while “adjoining” means “touching or bounding at a point or line”. Merriam-Webster Online Dictionary.

As Carraway testified, the purpose of the ordinance was to prevent the sale of merchandise from hampering the flow of traffic and parking in front of commercial businesses. Here Bowman displayed the merchandise on the lawn of her business—neither party alleged that

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<sup>1</sup> <http://www.bing.com/search?q=sidewalk%20defined&qs=n&form=QBRE&pq=sidewalk%20define&sc=8-10&sp=-1&sk=&cvid=a6a3c76f6aa74a03accf651f02073bf> (last visited Nov. 13, 2014).

<sup>2</sup> <http://www.merriamwebster.com/dictionary/sidewalk> (last visited Nov. 13, 2014).

any parking was available on the grass, though the State raised for the first time in oral argument on appeal that traffic was hindered based upon the defendant's activities. However, the State did not flesh out, or give concrete examples of how this business activity impacted traffic and it is unclear if this comment is in relation to proprietor parking on the street or proprietor parking in the parking lot at the rear of the property. Therefore not only does the alleged violation fail to serve the underlying statutory purpose of 10-7-14 because there is no evidence beyond the State's assertion on appeal that the sale interfered with traffic flow, but the path is not a "sidewalk" within the ordinary meaning of the word.

*c. Sufficiency of the evidence*

As discussed, a jury verdict will not be set aside on appeal if it is supported by substantial and competent evidence. *Hurtado*, 153 Idaho at 17, 278 P.3d at 419. In this case, even construing the evidence adduced at trial in the light most favorable to the State, the defendant must be acquitted because the prosecution failed to prove every material element of the offense beyond a reasonable doubt. Based on the ordinary meaning term of the word "sidewalk," reasonable minds could not differ in concluding that the defendant is not guilty of violating Twin Falls, Idaho City Code 10-7-14 because she did not have merchandise beyond the front sidewalk adjacent to her business building; she had merchandise beyond the front path or walkway adjoining to her business building, but that conduct that is not currently prohibited by city code, since the walkway is not a "sidewalk" as that term is generally understood and the verdict is not supported by substantial and competent evidence. Therefore, the Magistrate Court erred in denying the defendant's Motion for judgment of acquittal.

**B. Motion for judgment of acquittal based on vagueness and motion for new trial  
based on the Magistrate Court's error**

Having concluded that there was insufficient evidence to uphold Bowman's conviction, this Court need not address the parties' arguments regarding statutory vagueness as applied or the Magistrate Court's alleged errors.

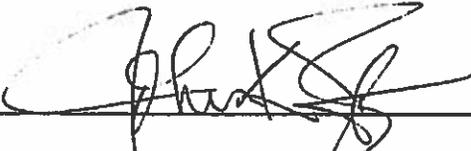
V.

**CONCLUSION**

For the reasons stated above, the defendant's verdict is VACATED and case is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 5 day of January, 2015.

  
\_\_\_\_\_  
John K. Butler, District Judge

CLERK'S CERTIFICATE OF MAILING

I, undersigned, hereby certify that on the 7 day of January, 2015, a true and correct copy of the foregoing MEMORANDUM OF DECISION ON APPEAL was mailed, postage paid, and/or hand-delivered to the following persons:

Kirk A. Melton  
Worst, Fitzgerald & Stover, P.L.L.C  
905 Shoshone Street North  
P.O. Box 1428  
Twin Falls, ID 83303  
Counsel for Appellant

Shayne T. Nope  
Deputy Prosecuting Attorney  
P.O. Box 1907  
Twin Falls, ID 83303  
Counsel for Respondent

  
Deputy Clerk



ADRIAN AVE

Reference Only

Approx Property Line

Easement #2

Lot 3

Lot 3  
"Dominant Estate" in Easement #1  
Servient in Easement #2

Lot 2

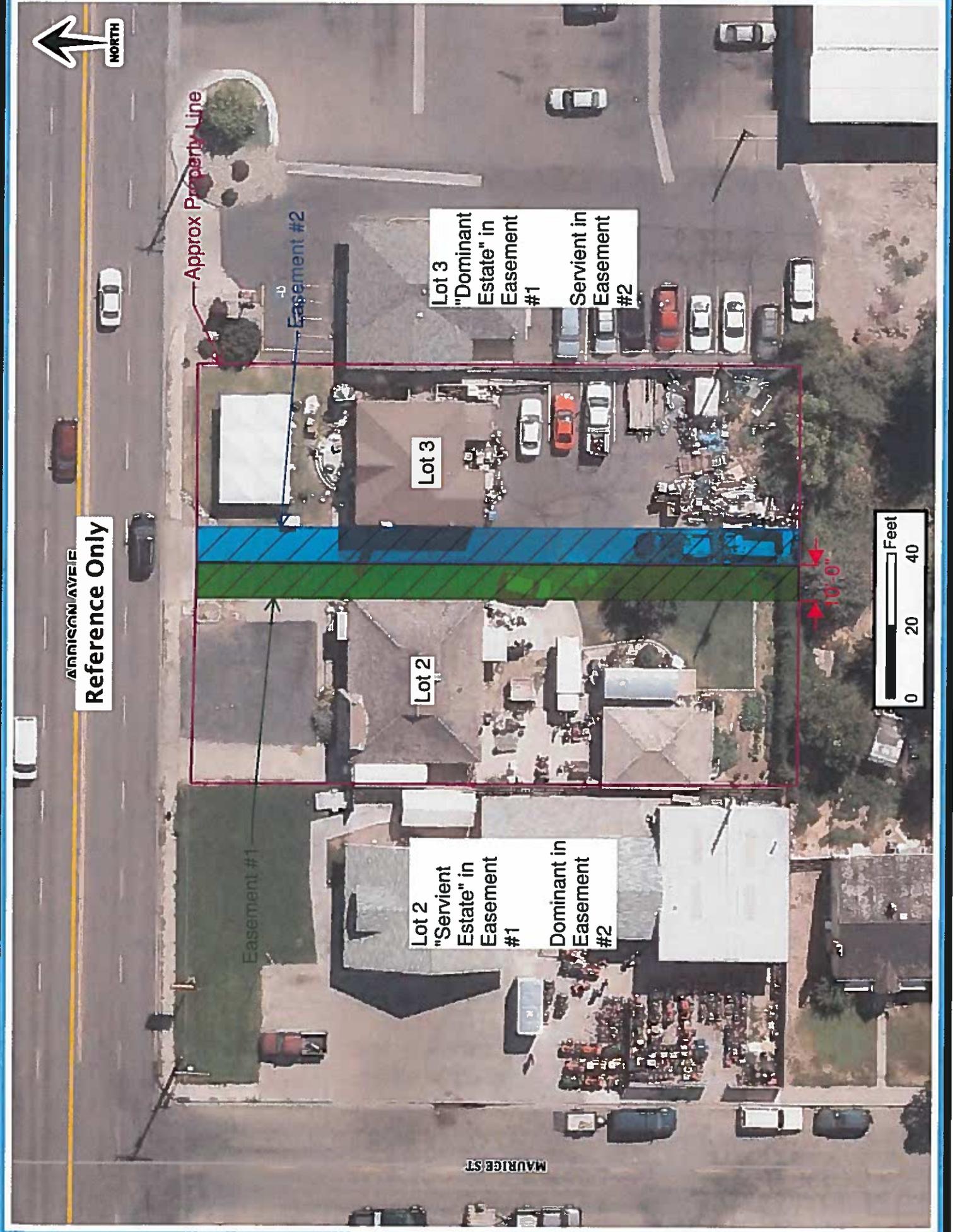
Lot 2  
"Servient Estate" in Easement #1  
Dominant in Easement #2

Easement #1

10'-0"



MAURICE ST



## **Renee Carraway**

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**From:** Renee Carraway  
**Sent:** Wednesday, November 4, 2015 10:21 AM  
**To:** Jonathan Spendlove  
**Cc:** Kristi D. Fehringer  
**Subject:** Access Easement(s) for Elaine Bowman  
**Attachments:** Easement #1 - 1997.pdf; Easement #2 - 1997.pdf

Jonathan;

Please print out a GIS map of 1720 & 1726 Addison Ave E identifying the attached easements. *I would like it b/4 the w/s please.*

*Thank You;*

*Rene'e V. (Carraway) Johnson  
Zoning & Development Manager  
City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303-1907  
(208) 735-7267  
[rcarrawa@tfid.org](mailto:rcarrawa@tfid.org)*

## GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this 27<sup>th</sup> day of August, 1997, by ELAINE K. BOWMAN, a single woman, dealing with her sole and separate property.

### RECITALS

WHEREAS, Elaine K. Bowman is the owner of the following described real property situated in Terrace Lawn Subdivision, Twin Falls County, Idaho, which is hereinafter referred to as the "Servient Estate":

That part of Lots 2 and 3 of Terrace Lawn Subdivision, Twin Falls County, Idaho, according to the plat thereof recorded in Book 3 of Plats, page 27, records of Twin Falls County, Idaho, described by the following metes and bounds:

Beginning at a point on the north line of Lot 2, which point is 10' east of the northwest corner of said Lot 2;

thence east along the north line of Lots 2 and 3 of said subdivision, a distance of 61';

thence south a distance of 170';

thence west along a line parallel with the north line of Lots 2 and 3 a distance of 61';

thence north for a distance of 170' to the north line of Lot 2 and the place of beginning.

EXCEPT the north 5' thereof.

WHEREAS, the Servient Estate is bounded on the east by the following described real property in Terrace Lawn Subdivision, Twin Falls County, Idaho which is hereinafter referred to as the "Dominant Estate":

That part of Lot 3, TERRACE LAWN SUBDIVISION to Twin Falls, Twin Falls County, Idaho, according to the official plat thereof recorded in Book 3 of Plats, page 27, records of Twin Falls County, Idaho, more particularly described as follows:

BEGINNING at the Northeast corner of Lot 3 of Terrace Lawn Subdivision,

THENCE West along the North boundary line of said Lot a distance of 55 feet;

THENCE South parallel with the East line of said Lot, a distance of 175 feet;  
THENCE East parallel with the North boundary line of said Lot a distance of 55 feet;  
THENCE North on the East boundary line of said Lot a distance of 175 feet to the POINT OF BEGINNING;

EXCEPT the North 5 feet thereof.

WHEREAS, Elaine K. Bowman desires to grant a vehicular driveway easement over and across a portion of the Servient Estate for the benefit of the Dominant Estate, its present and succeeding owners.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells and conveys to all present and future record title holders of the Dominant Estate, an easement over and across a portion of the Servient Estate, described in, as follows:

1. Easement Description. The easement herein granted shall be over and across the east ten feet of the Servient Estate.
2. Purpose and Duration. The easement herein created is a non-exclusive easement solely for the purpose of providing the Dominant Estate with a driveway access to said estate, and it shall be perpetual, unless center terminated as provided by law.
3. Beneficiaries. The easement herein granted shall run with ownership of the Servient Estate and shall benefit the Dominant Estate, and all present and succeeding owners thereof.
4. Limitation of Use. The easement herein granted shall be used for the purposes of access only, and shall not be used for any other purpose, including, but not limited to, the storage of equipment, inoperable vehicles, recreational vehicles or boats. The easement is non-exclusive, and shall be used jointly with the owners of the Servient Estate as a driveway, and it shall at all times be kept open and unobstructed for the benefit and use of the owners of both the Dominant Estate and the Servient Estate.

IN WITNESS WHEREOF, Elaine K. Bowman has executed and herein granted the above described easement this 27<sup>th</sup> day of August, 1997.

By Elaine K. Bowman  
ELAINE K. BOWMAN

STATE OF IDAHO            )  
  )ss.  
County of Twin Falls        )

On the 27<sup>th</sup> day of August, 1997, before me, a Notary Public, in and for said County and State, personally appeared ELAINE K. BOWMAN, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she 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.

Bethia M. Young  
NOTARY PUBLIC FOR IDAHO  
Residing at: Twin Falls  
My commission expires: 12/23/2000

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## GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this 27<sup>th</sup> day of August, 1997, by ELAINE K. BOWMAN, a single woman, dealing with her sole and separate property.

### RECITALS

WHEREAS, Elaine K. Bowman is the owner of the following described real property situated in Terrace Lawn Subdivision, Twin Falls County, Idaho, which is hereinafter referred to as the "Servient Estate":

That part of Lot 3, TERRACE LAWN SUBDIVISION to Twin Falls, Twin Falls County, Idaho, according to the official plat thereof recorded in Book 3 of Plats, page 27, records of Twin Falls County, Idaho, more particularly described as follows:

BEGINNING at the Northeast corner of Lot 3 of Terrace Lawn Subdivision,

THENCE West along the North boundary line of said Lot a distance of 55 feet;

THENCE South parallel with the East line of said Lot, a distance of 175 feet;

THENCE East parallel with the North boundary line of said Lot a distance of 55 feet;

THENCE North on the East boundary line of said Lot a distance of 175 feet to the POINT OF BEGINNING;

EXCEPT the North 5 feet thereof.

WHEREAS, the Servient Estate is bounded on the east by the following described real property in Terrace Lawn Subdivision, Twin Falls County, Idaho which is hereinafter referred to as the "Dominant Estate":

That part of Lots 2 and 3 of Terrace Lawn Subdivision, Twin Falls County, Idaho, according to the plat thereof recorded in Book 3 of Plats, page 27, records of Twin Falls County, Idaho, described by the following metes and bounds:

Beginning at a point on the north line of Lot 2, which point is 10' east of the northwest corner of said Lot 2;

thence east along the north line of Lots 2 and 3 of said subdivision, a distance of 61';

thence south a distance of 170';  
thence west along a line parallel with the north line of Lots 2 and  
3 a distance of 61';  
thence north for a distance of 170' to the north line of Lot 2 and  
the place of beginning.

EXCEPT the north 5' thereof.

WHEREAS, Elaine K. Bowman desires to grant a vehicular driveway easement over and across a portion of the Servient Estate for the benefit of the Dominant Estate, its present and succeeding owners.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells and conveys to all present and future record title holders of the Dominant Estate, an easement over and across a portion of the Servient Estate, described in, as follows:

1. Easement Description. The easement herein granted shall be over and across the west ten feet of the Servient Estate.

2. Purpose and Duration. The easement herein created is a non-exclusive easement solely for the purpose of providing the Dominant Estate with a driveway access to said estate, and it shall be perpetual, unless center terminated as provided by law.

3. Beneficiaries. The easement herein granted shall run with ownership of the Servient Estate and shall benefit the Dominant Estate, and all present and succeeding owners thereof.

4. Limitation of Use. The easement herein granted shall be used for the purposes of access only, and shall not be used for any other purpose, including, but not limited to, the storage of equipment, inoperable vehicles, recreational vehicles or boats. The easement is non-exclusive, and shall be used jointly with the owners of the Servient Estate as a driveway, and it shall at all times be kept open and unobstructed for the benefit and use of the owners of both the Dominant Estate and the Servient Estate.

IN WITNESS WHEREOF, Elaine K. Bowman has executed and herein granted the above described easement this 27<sup>th</sup> day of August, 1997.

By Elaine K. Bowman  
ELAINE K. BOWMAN

STATE OF IDAHO            )  
  )ss.  
County of Twin Falls        )

On the 27<sup>th</sup> day of August, 1997, before me, a Notary Public, in and for said County and State, personally appeared ELAINE K. BOWMAN, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she 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.

Betina M. Young  
NOTARY PUBLIC FOR IDAHO  
Residing at: Twin Falls  
My commission expires: 12/23/2000

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