I. CALL TO ORDER

PRESENT: Ansotegui, Stevens, Gillespie, Finfrock, Bratnober, Zuckerman, Stead, Schafer

ABSENT:

II. MINUTES ACCEPTANCE

1. Planning and Zoning Commission Minutes – December 2, 2019
2. Planning and Zoning Commission Minutes – December 9, 2019

III. CREATION OF CONSENT AGENDA

A. **PUD15-00017 & CFH15-00037 / The Reserve at Deer Valley, LLC**
   8134 N Pierce Park Lane
   A conditional use permit and hillside development permit for a planned residential development comprised of 96 detached single-family homes on approximately 90 acres located within the R-1A (Single Family Residential) zone. Kevin Holmes

B. **PUD17-00029 / ID Malone3 LLC**
   3555 E Warm Springs Ave
   Conditional use permit for a planned residential development comprised of 47 detached single family homes on 8.65 acres in a R-2D/DA (Medium Density Residential with Design Review and a Development Agreement) zone. Céline Acord

3. **CUP19-00084 / Heroes Academy**
   5771 N Discovery Way
   Conditional use permit to operate a private school in an existing 7,500 square feet tenant space on 1.59 acres located in a T-1D (Technological-Industrial Park with Design Review) zone. Ethan Mansfield
5. **CVA19-00066 / YESCO**
   1099 W Front St
   Variance to exceed the maximum background area for an electronic message display sign on 1.90 acres located in a C-5DD (Central Business District with Downtown Design Review Overlay). Nicolette Womack

6. **SOS19-00024 / Chris Trivolis**
   2503 S Annett St
   Waiver to the Subdivision Ordinance requirement to construct curb, gutter and sidewalk as part of a Minor Land Division on 0.44 acres located in an R-1C (Single Family Residential) zone. Kevin Holmes

7. **PUD19-00037 / Tyler Targee**
   2711 W Woodlawn Ave
   Modification to a previously approved conditional use permit for a planned residential development comprised of 3 attached townhomes on 0.22 acres located in an R-2 (Medium Density Residential) zone. Kevin Holmes

   **SUB19-00069 / Woodlawn Townhomes**
   2711 W Woodlawn Ave
   Preliminary and Final Plat for a residential subdivision comprised of 3 buildable lots on 0.22 acres located in an R-2 (Medium Density Residential) zone. Kevin Holmes

---

**RESULT:** APPROVED [UNANIMOUS]

**MOVER:** Tamara Ansotegui, Co-Chair

**SECONDER:** Meredith Stead, Commissioner

**AYES:** Ansotegui, Stevens, Gillespie, Finfrock, Bratnober, Stead, Schafer

**ABSTAIN:** Ben Zuckerman

**UNANIMOUS APPROVAL TO PLACE ON CONSENT**

**ALL IN FAVOR, MOTION CARRIED**
IV. NEW BUSINESS

1. **CAR19-00022 / SU Architecture**
   CAR19-00022 / 3047 S Bown Way / Rezone of 0.53 acres from a C-1D (Neighborhood Commercial with Design Review) zone to a PCD/DA (Pedestrian Commercial with Design Review and Development Agreement) zone. Leon Letson

   **CUP19-00064 / SU Architecture**
   3047 S Bown Way
   Conditional use permit for a parking reduction associated with the construction of a 6,700 square foot multi-tenant retail building on 0.53 acres in a proposed PCD/DA (Pedestrian Commercial with Design Review and Development Agreement) zone. Leon Letson

<table>
<thead>
<tr>
<th>RESULT:</th>
<th>APPROVED [6 TO 1]</th>
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<tbody>
<tr>
<td>MOVER:</td>
<td>Meredith Stead</td>
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<tr>
<td>SECONDER:</td>
<td>Jennifer Stevens, Chairperson</td>
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<tr>
<td>AYES:</td>
<td>Ansotegui, Stevens, Gillespie, Finfrock, Stead, Schafer</td>
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<td>NAYS:</td>
<td>Jim Bratnober</td>
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<tr>
<td>ABSTAIN:</td>
<td>Ben Zuckerman</td>
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<tr>
<td>First Motion:</td>
<td>Commissioner Bratnober moved to recommend approval of the rezone and to deny the CUP. Commissioner Stead second. No vote.</td>
</tr>
<tr>
<td>Second Motion:</td>
<td>Commissioner Gillespie moved to recommend approval of the rezone. Commissioner Bratnober second. No vote.</td>
</tr>
<tr>
<td>Third Motion:</td>
<td>Commissioner Gillespie moved to approve the CUP. Commissioner Ansotegui second. No vote.</td>
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<tr>
<td>Fourth Motion:</td>
<td>Commissioner Gillespie moved to withdraw previous motions. Commissioner Schafer second. Motion Passed [unanimous].</td>
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<tr>
<td>Fifth Motion:</td>
<td>Commissioner Stead moved to recommend approval of the rezone and to approve the CUP. Commissioner Gillespie second. Motion Failed [2 to 5].</td>
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<tr>
<td>Sixth Motion:</td>
<td>Commissioner Bratnober moved to deny the CUP. No second. Motion Failed.</td>
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<tr>
<td>Seventh Motion:</td>
<td>Commissioner Gillespie moved to approve the CUP. Commissioner Schafer second. Motion Failed [2 to 5].</td>
</tr>
<tr>
<td>Eight Motion:</td>
<td>Commissioner Stead moved to recommend approval of the rezone and to approve the CUP. Madam Chair Stevens second. Motion Passed [6 to 1].</td>
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**MAJORITY APPROVAL, MOTION CARRIED.**
CITY OF BOISE PLANNING AND ZONING COMMISSION

IN RE: )
CAR19-00022 / SU Architecture )
and )
CUP19-00064 / SU Architecture )

TRANSCRIPT OF RECORDED PUBLIC HEARING

TAKEN JANUARY 13, 2020

COMMISSIONERS PRESENT:

JENNIFER STEVENS, CHAIR
TAMARA ANSOTEGUI, CO-CHAIR
JIM BRATNOBER
JANELLE FINFROCK
MATT GILLESPIE
BOB SCHAFER
MEREDITH STEAD
BEN ZUCKERMAN, STUDENT COMMISSIONER

TRANSCRIBED BY:

ANDREA L. CHECK, CSR No. 748, RPR
Notary Public
INTRODUCTION

CHAIRMAN STEVENS: Perfect. Thank you.

So we'll first hear Item 1 tonight. This is CAR19-22 and CUP19-64. We'll hear from Mr. Letson.

Just want to make sure you've got the chair in sight.
Okay.

LEON LETSON: Yes, thanks. It's a new year.

All right. Good evening, Madam Chair and Members of the Commission. The applications before you are a conditional use permit for a parking reduction and a rezone from C-1D to PCD with a development agreement for a new multitenant building located at 3047 South Bown Way.

The subject property is located at the southwest corner of Parkcenter Boulevard and Bown Way. It is the last vacant parcel within Bown Crossing, a mixed-use development comprised of residential, retail, and office uses, as well as the Bown Crossing Library, and a Saint Alphonsus Urgent Care.

The proposed multitenant building is pictured here. It includes a 2,000-square-feet, 30-seat restaurant, 3,850 square feet of retail, and 580 square feet of storage and mechanical space.
Also included is, approximately, 1500 square feet of outdoor patio space and a 14-space parking lot. Cross access is provided to the subject property from properties to the south and west.

And that's highlighted here, just to reiterate the fact that this lot is connected to the Bown Crossing development from a cross-access standpoint.

As the restaurant and retail uses proposed are allowed within the C-1 and PC zones, the conditional use permit is for a parking reduction only. Shown here is a comparison of the 2018 project, that was, ultimately, denied by City Council, and the current project.

Via a redesign of the project, which primarily involved reducing the seating from 80 seats to 30 seats for the restaurant, the amount of required parking has been substantially reduced.

In addition, the PC zoning requested by the applicant allows for a 20 percent reduction to require parking for projects located next to streets with active transit routes and striped bike lanes, thus, the note regarding 23 versus 19 parking spaces being required.

A transit route exists on Parkcenter Boulevard, and a striped bike lane exists on Bown Way. As part of their request for a parking reduction, the applicant submitted a parking study identifying other
uses in the area: available on-street parking and access to alternative forms of transportation.

    Just a quick highlight as to what's involved with a parking reduction request. The first section here are the application requirements for parking reductions.

    It involves submitting a parking study, documenting a reduced need for parking, a list and schedule of major parking events, a detailed site plan and parking space count, a description of available public transit services or alternative transit opportunities -- or transportation opportunities in the area as well, and the description of available on-street parking.

    In terms of the evaluation criteria for a parking reduction, it's subject to the conditional use permit and approval criteria, which are listed in the staff report provided to the Commission.

    In regards to the rezone, the subject property is designated mixed use in Blueprint Boise and adjacent to existing PC zoned property to the south along Bown Way.

    These both support the requested rezone to PC. Furthermore, the existing C-1 zoning allows for the development of several auto-intensive uses, such as
drive-up establishments, car washes, and fuel centers that would not be appropriate for Bown Crossing and the surrounding neighborhood.

The requested PC zoning is the most appropriate option to support compatible development in terms of design and uses within the Bown Crossing area.

In support of the parking reduction and rezone, the subject property is located within the neighborhood activity center, which are intended to serve one or more neighborhoods and are characterized by small-scale services and uses that are pedestrian-friendly and primarily used by nearby residents.

As mentioned earlier, the subject property is adjacent to VRT Route No. 18 and a VRT bus stop, highlighted here in yellow. There is also easy access to the greenbelt, highlighted in blue, not green. And a GreenBike station located at the Bown Crossing Library just south of the proposed project.

In conjunction with the rezone, the planning team has requested a development agreement for the project. The following modifications to this agreement are recommended to minimize adverse impacts on adjacent properties, particularly from a parking standpoint.

These would include restricting loud uses to
restaurant, retail, and office only for the multitenant building. Specifically, the restaurant would be a 30-seat restaurant and 2000 square feet, as shown in the submitted floor plan, for the project.

It would include limiting the hours of operation for the proposed restaurant to 6:00 a.m. to 2:00 p.m. That's an effort to really kind of balance parking demand in the area with existing businesses.

And then in line with other outdoor seating areas in Bown Crossing, the outdoor seating area for the project shall be limited to no more than 400 square feet. And it should be noted that outdoor seating areas are not counted towards parking totals.

And so this condition is acknowledging that parking demand can be driven by outdoor seating, but, again, our parking code does not count patio areas towards required parking.

All reviewing department's agencies recommended approval of the project, with the standard conditions.

This will be the longest slide. Opposition to the project and conditions recommended by the planning team were received from both the neighborhood and the applicant.

Concerning the neighborhood, comments centered
around the belief that neither the existing nor proposed parking would be adequate to support the new businesses proposed as part of this project. There were also multiple statements that the parking study provided by the applicant was inadequate to demonstrate the availability of on-street parking in the area.

Changes proposed by the neighborhood include updating the parking study to include new on-street parking counts, reducing the scale and intensity of the project to better match provided parking, and denying the rezone request to PCD with the development agreement.

Although the planning team understands the perspective of the neighborhood concerning the parking study, it should be noted that no significant changes to the number or types of businesses in Bown Crossing have occurred since the last parking study was conducted in 2018.

In regards to reducing the scale and intensity of the project, the planning team has recommended conditions to be added to the development agreement in an effort to ensure the new project better fits within Bown Crossing as a whole.

Finally, the PC zoning requested, regardless of the Commission's decision on the parking reduction,
is found to be appropriate by the planning team, as it will restrict the development of several auto-intensive uses, such as drive-up establishments, car washes, and fuel centers, and support development compatible with existing uses in the area.

Concerning the applicant's opposition, they are opposed to the limitation of hours of operation for the restaurant. They would prefer 6:00 a.m. to 10:00 p.m., as with other businesses that currently operate in Bown Crossing.

The planning team believes this condition is essential for insuring the demand for parking for the various businesses within Bown Crossing remain as balanced as possible and would recommend keeping it within the development agreement.

In conclusion, the planning team recommends approval of the parking reduction with the attached conditions, as well as a recommendation of approval to City Council of the rezone and development agreement with the recommended modifications, as noted earlier in my presentation.

On this note, the planning team suggests modifying the conditions of approval for the project to ensure the following conditions be attached to the parking reduction, as well, in the event the rezone and
development agreement are, for some reason, not approved by City Council.

And so let me just play out that scenario. You guys approve the parking reduction today, make a recommendation to City Council, it's not appealed, it gets in front of City Council, they don't like PC zoning and say, "We'll give you the" -- "Well, the parking reduction has already been decided upon, but we're not going to give you the zoning," we would still have those limitations of hours, patio space, and other items deemed necessary by the team to make this use fit within the area attached to the conditional use permit.

So that's a change that staff is asking to update the conditions of approval so it's reflected in both areas, the development agreement and the conditional use.

And that concludes my presentation.

CHAIRMAN STEVENS: Thank you, Leon.

Is the applicant present?

Would you care to step forward and make a presentation? Would ten minutes be adequate?

JOHN DAY: Yes.

CHAIRMAN STEVENS: Okay.

JOHN DAY: Excuse me. Okay, it's on.

Good evening, Madam Chair, Commissioners. I
appreciate you guys taking the time to hear this out tonight. I think --

CHAIRMAN STEVENS: I need you to start with your name and address.

JOHN DAY: Oh, excuse me, yes. I always forget that. My name is John Day. I reside at 3501 North 32nd Street, Boise, Idaho.

I think one of the things that, I guess, I'd just like to reiterate in front of you guys tonight is that Bown Crossing -- you know, we've been here before, at several hearings, in front of the Planning and Zoning Commission and the Council and were, ultimately, denied.

I would like to just state a few things about that, in that we felt we were -- well, I'll get to that in a minute. But I guess regarding Bown Crossing, is that I think it's important to understand -- I think most of you are aware of what Bown Crossing is and what it's like and what takes place out there, but Bown Crossing is a classic mixed-use development. And it's got offsetting businesses -- or excuse me -- businesses that offset, kind of, peak times. That's kind of the concept behind a mixed-use development.

And, for example, the library out there is closed on Mondays. It's got Tuesday, it's -- Tuesday through Friday is open 10:00 to 9:00. Saturday and
Sunday has got limited hours, 12:00 and 1:00, respectively, to 5:00 p.m.

Saint Al's, another major tenant out there, is closed on weekends, and Monday through Friday their operation hours are 8:00 to 8:00 p.m. There's various retail shops. Those are usually open between 8:00 and 8:00 p.m. There are some offices in Bown Crossing as well. Those generally don't sign those hours, but they run from anywhere from 8:00 to 7:00 a.m. to, you know, early-evening hours.

And then there's a handful of restaurants. The restaurants out there -- generally, there's Bier: Thirty, Boise Fry Company, Flatbread. I may be missing one or two, I can't think of them. But they're generally open from 11:00 a.m. to 9:00, 10:00, or 11:00 p.m. in the night, and only Locavore is open in the morning for breakfast.

We are proposing a breakfast restaurant. And so I hope you can see that, again, there's many different types of uses, many different operational hours, offsetting peak times, classic mixed-use development. The reason I bring this up is because at our previous hearings, we had argued the rights of what we interpreted in the CC&Rs, which should give us permission to cross-park in the greater parking field.
Again, if you look at the site plans, it's a classic mixed-use development, and you have perimeter buildings with a large parking field in the center. It also should be noted that the largest landholders in the development, the library and the clinic, were both overparked by their lots, and those are required by the CC&Rs. The library is required 41 spaces, they constructed 102. Saint Al's was required 43, and they put in 55.

Again, I think this speaks to the concept of a mixed-use development with a shared parking field in the center. So we believe that the original developer had contemplated this when he developed this property and broke apart the parcels, in that our parcel was required to put a cross access through there.

As it exists right now, the buildings along Bown Crossing are a dead end. And as a requirement to the CC&Rs, we are to punch through there to the adjacent lot to the left -- or to the east -- west, excuse me, which is Saint Al's.

That eliminates several potential parking spaces for us that we could have put in, but as a requirement of the CC&R, we're required to put the access aisle in.

I think it's also lost on the opposition that
mixed-use development -- the concept of visiting more than one store or one location when you visit Bown Crossing. You know, Bown Crossing's perfectly set up for maybe visiting your doctor in the morning -- there's several doctors' offices -- an eye exam, you could get something to eat, you could go to the library. So you could go to three, four different places in one visit.

Not everybody is driving to one location and then going home. So, you know, you'd be seeing lots of foot traffic out there from once you're parked there. So there's a distribution of people walking throughout the space.

So back to the CC&Rs. So you're going to hear a lot of opposition tonight, and that the CC&Rs -- we don't have any rights to the cross park -- excuse me -- to the greater parking field.

And I guess I'd just like to point out that I've only seen two legal determinations -- and, granted, one of them was our -- from our -- my client's attorney. The other one was -- I have a letter from the master association at Bown Crossing, which oversees all of the other associations, the home, the condo owners, the business owners -- and specifically in that letter, it states that based on the available information -- and that would be the site plan that we submitted to them
with a parking reduction of 14, showing that we were hoping to use the greater parking field -- that based on the available information, the Yick Yee family is not in violation of the CC&Rs.

And so, again, we believe we are entitled to it. But it was determined at Council that the City cannot take a private agreement -- take a private agreement in determination of a parking reduction. And that was a little bit hard to understand.

And I think even -- I think it was Commissioner Bradbury even stated that he thought that we were undoing about 20 years of decisions that they had been making, based on that information. So he even found it hard to believe that they're not supposed to rely on a private agreement.

So we're putting all of that aside, and now we're not basing our request on CC&Rs. And so now all we have to do is lean on Boise City's master plan and Blueprint Boise and the zoning code.

And in the zoning code, it states that neighborhood activity centers are a denser, more -- it's a more denser development, and it's -- excuse me -- so, again, all we have to fall back on now is the zoning code, which does allow for situations like this.

And then to follow up, the zoning change,
you'll probably hear from the opposition that we're trying to ram the parking reduction forward by the zone change by automatically getting the five parking reduction. That's not our intent. That's a byproduct of it.

But we've always stated in this current application that the parking reduction we're requesting is nine. If it so happens to be a five when we get there, that's beyond -- you know, that's a different matter.

But the only intent of our parking -- or zone change is that we heard it loud and clear from the Commissioners that it was probably a little bit more appropriate for the area. All of the properties adjacent on Bown Crossing are PC zone. And we thought it would limit more intense uses, more traffic-heavy uses, to the potential occupants of the building.

So with that, I have nothing further to say.

I would stand for any questions.

NEIGHBORHOOD ASSOCIATION

CHAIRMAN STEVENS: Thank you. We're actually going to hear from the neighborhood association first before we do questions tonight.

Excuse me. Is a representative from the SENA neighborhood association here?
Great. Mr. Fritchman, will ten minutes be adequate for you?

FRED FRITCHMAN: Oh, yes. Thank you.

CHAIRMAN STEVENS: Great. Thank you.

FRED FRITCHMAN: Good evening, Commissioners. My name is Fred Fritchman, representing the SouthEast Neighborhood Association. I live at 1321 Denver Avenue. Our board has voted to oppose the parking reduction for this project. Very little has changed about this project since it was rejected by City Council. The building size and number of parking spaces remains the same.

The size of the restaurant is smaller, but outside seating will undoubtedly lead to an increased need for parking, and the retail space's appetite for parking is a total question mark at this point.

It's easy to see how virtually the entire parking lot could be filled by employees alone. If those employees park elsewhere at Bown Crossing, that could lead to friction with other Bown businesses.

Bown Crossing neighbors have said many times that this building, as proposed, simply cannot be parked on its site. And parking on Bown Crossing streets and its lots has become very stressed.

Those neighbors are in the best position to
observe what actually happens where they live and work. As Bown Crossing resident Richard Loomis said so well in this letter to you last week, "If this applicant were proposing a 7,000-square-foot, single-tenant bank or legal office, which was the previous landowner's intent for the past decade plus," unquote -- not close quote -- "not a single voice of opposition would be coming forward right now."

As SENA has suggested in the past, the applicant would be better served by adjusting the balance between building size and parking, to truly meet the parking needs of their customers, or by proposing a less parking-intensive use than the restaurant-retail mix now before you.

Thank you.

CHAIRMAN STEVENS: That was quick. Thank you.

Okay. Now is the time for questions of either staff or the applicant.

Do the commissioners have any questions?

CHAIR ANSOTEGUI: Madam Chair?

CHAIRMAN STEVENS: Ms. Chair Anstegui.

CHAIR ANSOTEGUI: I have a question for staff. Leon, in the development agreement, we see that the site is restricted to restaurant, retail, and office. And then we also see that the time of the -- of
that use is between -- is in the morning, essentially.

What happens if there is a change in use? If it goes to office, what happens to the time restriction, and how does that play out?

LEON LETSON: Yeah. Chair Stevens, Commissioner Ansotegui, so the limitation of hours was specific to the restaurant only, and so that should be stated more clearly by staff. And that's how that condition -- both in the conditional use permit and the development agreement -- would read.

We're not proposing to restrict the hours of operation for the retail and office. I think there's been some confusion in comments received from the public about retail versus restaurant. We, in our table of allowed uses, have specifically restaurant as a use. So we are proposing one restaurant use attached to this building. That would be the 2,000-square-foot space and the 30-seat area.

So in terms of change of use for the other tenants, it would be retail or office that they could put in there. Both of which require the same amount of parking, one space per 300 square feet of space, be it retail or office. That would not allow for a yoga studio.

I've heard some other uses that were thrown
out there that people seem to think are office or retail uses. Yoga studios, things like that, are not considered retail or office, per our code. So there's a very specific amount of parking required for retail and office.

And so, again, yeah, those two spaces and even the restaurant could go retail or office as well. It would be a much lower parking demand as a result of going in that direction.

I don't know if I've answered your question thoroughly? Okay.

COMMISSIONER ANSOTEGUI: Thank you.

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: I have a question for staff.

Do you know, have any other businesses in the -- in Bown Crossing received such limited restrictions on operating hours? Just, it looks like, eight hours a day.

And then, additionally, have -- do you know, have other businesses received parking variances?

LEON LETSON: Yeah. Chair Stevens, Commissioner Stead, so there -- per my knowledge of the other approvals in Bown Crossing, there are no
limitations of hours that have been proposed or imposed by the City.

I could -- you know, if it's determined that we have, at some point, said the library can be only open a certain number of hours, as I understand it, those are pretty typical operating hours for the library.

As stated by the applicant, the other restaurants are open until 10:00 or 11:00 at night, which is -- seems to be more of a self-imposed kind of time limit than anything the City has put on those.

The answer to your question about parking reductions for all of the other uses, that is a -- many of you were here in 2018 when we explored that. There was a pretty incredible spreadsheet that we all spent some time trying to figure out.

And it was determined that, yes, at times under the original design review approval and through the PC standards, which have sort of embedded parking reductions as a part of using that zoning, that some of the uses were, indeed, granted fewer parking spaces, but none of it was formalized in any type of shared parking agreement. It all hinged upon those CC&Rs, which proved to be still problematic all of the way to City Council in terms of how we figure out who gets to park where and
how much they get to park in Bown Crossing.

So I can only say, yes, it's been reduced for some folks, but the nature of that, again, was not very well formalized by the City throughout the development of Bown Crossing until this point. And this is, again, the last parcel to be considered, and all of the sins of the past might be coming out on this parcel a little bit.

COMMISSIONER STEAD: Thank you.

CHAIRMAN STEVENS: Other questions for staff or the applicant?

Commissioner Bratnober?

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Thank you.

Just so I can get my math straight and make sure I'm -- it's on the record correctly, so the applicant's proposing 14 spaces; you've identified another 37 spaces of parking on the adjacent street?

LEON LETSON: Yeah. Chair Stevens, Commissioner Gillespie, there have been identified, through the parking study that was conducted in 2018, that 37 on-street parking spaces exist. The availability of that on-street parking is not 37 spaces at all times of the day; it's --
COMMISSIONER GILLESPIE: Right.

LEON LETSON: You know, through testimony provided by the neighborhood, as well as that study itself, it's much more limited than 37, but there are 37 up-for-grab spaces in Bown Crossing that are on-street parking, yes.

COMMISSIONER GILLESPIE: Madam Chair?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So is it fair to say that both this Commission and the City have sort of had a long-standing policy that those 37 spaces, though, aren't dedicated or allocated or already spoken for; those are just 37 publicly available spaces that the Code allows us to count or consider in the context of this parking reduction?

Is that a fair assessment of both the Code and the complaint?

LEON LETSON: That is correct, yes. None of the on-street parking is specifically assigned to any of the tenants that are adjacent to the on-street parking.

COMMISSIONER GILLESPIE: Thank you. Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Just a final question for, sort of, this round, and I'll let my comrade, Jim,
have a go.

I'm trying to think of when we saw this hours of limitation proposal in the context of a parking reduction. We see it a lot of times with respect to bars or nightclubs or other activities next to neighbors, but it's really to prevent noise and lights and car movements after, say, 10:00 o'clock; right? It's to protect the tranquility of the neighborhood.

That doesn't seem to be an issue here. It's really to try and shift the parking. Do we have any idea of how effective that would be?

I mean, can we even walk through the math? Like, if the restaurant's closed by, say, 3:00, and all of the patrons are gone, what then is the remaining parking load of this development moving, say, from 3:00 o'clock on to 10:00? It would just be the retail space. So, I mean, have you guys thought through that at all, analytically?

LEON LETSON: Yeah, Commissioner Gillespie, you know, it's really -- that was an effort acknowledging the fact that no other business has limitation on hours of operation. And through the applicant's expressed, kind of, desire to have a breakfast/lunch-focused use here, we thought this could be the thing that maybe works to balance things out for
those other uses that have that, you know, happy-hour, dinner-hour peak rush where more parking is going to be needed in Bown Crossing. So that really was the nature of it.

We do not have a more scientific calculation as to where parking will shift during -- I mean, as -- you know, again, through neighborhood testimony, the argument is there's no room for anybody right now. And so we are not, necessarily, accepting that. We are -- you know, through the review of the parking study, think that these uses can coexist.

But there's nothing to prohibit every one of those restaurants becoming a breakfast-only restaurant, and then we'd just have a crazy breakfast peak demand that no one could account for, so...

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Just sort of to run through the math and run it by you, but also sort of get it on the record for you guys to think about, too.

So if the restaurant is closed, say, by 3:00, and there's no patrons there, let's assume it still takes down two parking spots for staff/management of the restaurant, so that leaves 12 other spots for all of the retail office from, say, 3:00 to 6:00 or 3:00 to 7:00,
and then maybe after 7:00 there would be zero demand
coming out of this building, or maybe just one or two, a
very low demand.

So have we thought -- so it could be -- could
it be the case that, say, after about 3:00 o'clock, this
building -- in fact, the 14 spaces available could be
adequate for whatever is remaining once the restaurant
closes?

LEON LETSON: Yes. Again, I think that's kind
of the spirit of the condition, as proposed by the
staff, is that we are formalizing parking. Right now
it's not formalized. It is a dirt parking lot that is
being used, and we have plenty of pictures to show you
that people are parking all over this lot. Again, you
know the nature of the use is as retail and office. We
think that those have less peak-hour demand than, say,
restaurant uses and then the hour of operations limiting
the restaurant; again, it's all to --

COMMISSIONER GILLESPIE: Try to shift --

LEON LETSON: Trying to balance it all out
and, hopefully, make this all work better for Bown
Crossing as a whole. And I think the applicant has come
to this with that mindset as well, so...

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.
COMMISSIONER GILLESPIE: Just one last thing.

So I hope somebody asks about Saint Alphonsus
and the library and those 200 parking spaces and how we
should think about those in the context of this
permit --

CHAIRMAN STEVENS: Commissioner Gillespie, if
you have a question, why don't you go ahead and ask it.

COMMISSIONER GILLESPIE: No, I'm going to go
ahead and let it go for someone else.

CHAIRMAN STEVENS: All right. Well, we'll
come back to you if nobody else does it.

Commissioner Bratnober [unintelligible].

COMMISSIONER BRATNOBER: So a couple of
questions for staff first, I guess.

So with respect to the parking study in 2018,
two things: First of all, when you look at that period
between 6:00 and 2:00, I think is what we're saying in
the limitation, obviously, there's a point in there
where it significantly overlaps with businesses and
people going for that -- how did you guys address that?
What were your findings?

Because I know, again, a lot of the public
correspondence that we've received, basically, it's come
out the way you described as concerns that, yeah, you
say the spaces are there, but they're always full.
LEON LETSON: Yeah, Chair Stevens,
Commissioner Bratnober, you know, I mean, the City is at a point where if it takes too much, we would be at risk of a takings here. To say you can only operate between 6:00 and 10:00 a.m., that doesn't seem fair when no one else has limitations within Bown Crossing.

So, yes, it was an evaluation of, kind of, demand for other uses in the area, the availability of parking on street, in particular. And, yes, I mean, it was really -- the stated, kind of, how we want to use this space that drove the condition by staff. We latched on to that to think that, you know, this could provide the balance necessary. If they truly are focused for breakfast and lunch, that could free up space for the more p.m. users in the area.

You know, again, I think the parking study, there's some interesting pieces there. The neighborhood has pointed out the 2018 -- there was a lot of focus on the private lot on the CC&Rs, and I think we've spent a lot of time going over that. I'm happy to discuss that some more, but I do think that the applicant, Mr. Day, has kind of recounted that history pretty well in terms of what we looked at and the decisions that we made.

But beyond that, yeah, I -- you know, I -- I don't think I've given you a very definitive answer
here. If you want to ask the question again, I can try again. But, you know, it really is just an attempt to kind of create balance as much as we can throughout the area and have this lot as something other than just the dirt parking lot it is right now.

UNIDENTIFIED SPEAKER: Madam Chair? Oh, I'm sorry.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: Okay. Okay. I was more concerned about how those things overlapped. But I guess the second thing I'd like to understand is the study was run in 2018. We've had significant growth all over the City, and Bown Crossing is, clearly, no exception.

What kinds of adjustments have been made to that parking study to be able to account for the growth that's occurred?

LEON LETSON: Commissioner Bratnober, the staff's position is there really haven't been significant changes in Bown Crossing since the last time parking was studied. There's been no change in the number of businesses or new businesses; they're the same.

And, in fact, you know, some of them are looking to exit, and there will be available office
space for new tenants to make use of. But there have
been no new buildings or new demands on parking, other
than Bown Crossing just becoming a much more popular
place on a regional level.

And I think that's experiencing every -- you
know, being experienced everywhere. But that was -- you
know, that's why we allowed the 2018 information to be
kind of added on to the four-to-five-page document
prepared by Mr. Day.

COMMISSIONER BRATNOBER: Okay. And I was
speaking mostly about the population growth, not the
growth of businesses in Bown Crossing.

LEON LETSON: And -- yeah. So I would -- I
guess it has not been evaluated to the level that we've
experienced population growth from 2018 and 2019. And,
again, that is one of the concerns stated by the
neighborhood, so paths forward could require an
additional study of parking in the area based on that
demand. I mean, that's at the Commission's discretion
to require that if it's your will, so...

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: So this might get -- if
this was getting into the CC&Rs, we can skip over it,
but if we've heard from the neighborhood and from the
applicant that businesses are not interested in sharing
parking spots with each other, what use is an empty parking lot after 2:00 o'clock if they have operating restrictions?

LEON LETSON: I'm sorry, can you restate the question one more time?

COMMISSIONER STEAD: So if -- let me see. So if their -- if their business is -- has to close down at 2:00 o'clock, the intention is that then that frees up parking spaces for other businesses; right?

But it seems like we've heard from the applicant and the neighborhood that the businesses that are there are not interested, it might get contentious if people share spaces, like if the staff from one business had to use another parking lot or...

LEON LETSON: Yeah. Chair, Commissioner Stead, so all of the parking out there is being shared right now. I mean, there's limited assigning of parking in Bown Crossing. The process of assigning parking at Bown Crossing actually invokes another section of our code that would require a 20 percent additional amount of parking for every user in the area.

So I don't -- it doesn't appear that's the direction Bown Crossing wants to go. And there have been no proposals by the applicant to limit their parking lot to not allow someone enjoying Bier: Thirty
or the library to park there, if necessary. That hasn't been something that staff has had to consider in making a recommendation here.

I don't think Bown Crossing is interested in assigning their parking, either. I've, you know, had conversations with several of the users there that don't think that's a good idea. So we're kind of caught between I don't want to restrict my parking, but I don't want them to use my parking, either. So it's a very complicated friction point, I guess.

COMMISSIONER STEAD: Thank you.

COMMISSIONER FINFROCK: Madam Chair?

CHAIRMAN STEVENS: Commissioner Finfrock.

COMMISSIONER FINFROCK: I had a question for staff.

The parking study relies on Lots 3 and 4 for available parking. And I believe Lots 3 and 4 are Saint Al's and the library. So how can we rely on parking that is private parking?

LEON LETSON: Yeah, Chair Stevens, Commissioner Finfrock, in the staff report, it was noted that the only section of the parking study that is to be considered by the Commission is the on-street parking section. So we are very clear in not evaluating the private parking.
You know, we took this to counsel, they attempted to resolve that via mediation, it was unsuccessful. So what we're asking the Commission today is to evaluate the user -- the uses proposed for the building, the 14 parking spaces provided on their lot, and on-street parking, as well as alternative forms of transportation. In no way are we asking you to consider private parking.

COMMISSIONER FINFROCK: Madam Chair?

CHAIRMAN STEVENS: Commissioner Finfrock.

COMMISSIONER FINFROCK: One more question for staff.

Hold on a second. Okay. So in prior hearings, is it my understanding that Boise City Council actually suggested the rezone, and that's the direction they would like to go?

LEON LETSON: Chair Stevens, Commissioner Finfrock, yes, at the final City Council hearing, one Council member did mention that a rezoned PC would, perhaps, be a good idea based on compatibility design. And they did also note the kind of inherent parking reductions associated with it.

So the applicant is responding to some guidance provided by counsel, but it wasn't a condition of a denial or approval or anything like that. And
staff is, again, supportive. As identified in the staff report, you know, it provides more consistency in the zoning that exists on Bown Way. It prohibits the number of uses that we wouldn't want to see developed on the site, particularly drive-thrus and more auto-intensive uses, so...

COMMISSIONER FINFROCK: Thank you.

CHAIRMAN STEVENS: Other questions for staff or the applicant?

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: I have some questions for the applicant, please.

Hi, thank you.

JOHN DAY: Uh-huh.

COMMISSIONER BRATNOBER: I wanted to understand -- so in terms of seating, what you're -- as you look at your original proposal and then the current proposal, including the patio seating -- and I realize the limitations on that in terms of considering parking, but when we talk about a variance, it certainly needs to come into our thinking.

Can you tell me what those stack up to be in comparison to each other?

JOHN DAY: Could you state that again? I
COMMISSIONER BRATNOBER: The original proposal?

JOHN DAY: Uh-huh.

COMMISSIONER BRATNOBER: And then current proposal, including patio seating?

JOHN DAY: So the patio seating's never been determined what the capacity of it is. At least we've never stated a number. And now that there's a development agreement out there that would cap it at 400 square feet, we're okay with that. So whatever kind of seating you get in 400 square feet.

COMMISSIONER BRATNOBER: I don't know much about that, so if you have an estimate, that would be great.

JOHN DAY: Well, the building code would -- I think would say that it's tables and chairs, and so you'd say 15 feet -- 15 square feet per occupant. But would that pan out in reality? I don't know. It depends on the configuration of the seating, what type of seating, and the configuration of the patio.

So if I understood your original question, yes, the original submittal that we submitted back in 2018 was for an 80-seat restaurant.

UNIDENTIFIED SPEAKER: 88-seat.
JOHN DAY: 88-seat restaurant. So -- and a parking reduction of 24. And so the concept now is a less-intense restaurant, smaller, less seating.

COMMISSIONER BRATNOBER: And how much is that, please?

JOHN DAY: What's being -- now it's 30-seat seating is what we would...

COMMISSIONER BRATNOBER: Okay. And let me get this straight. You did quote the CC&Rs. I understand the limits of the parking study, but did they actually say that you could share parking with other entities, or was it just --

JOHN DAY: Well, sir -- sir, that's --

COMMISSIONER BRATNOBER: -- well, you're not violating it, so...

JOHN DAY: Commissioner Bratnober, that's kind of the crux of the issue is that we believe that there's a private agreement in place that entitles our land to a shared parking agreement. And I have to go by my client's attorney's advice.

And then the only other advice or the only other determination I've seen on that comes from the master association, which oversees all of the other associations. And I know that they went out and got a legal determination, and they've come back to us and
said that we are in compliance with the CC&Rs. That
leads me to believe that they're saying that the shared
parking is allowed.

    COMMISSIONER BRATNOBER: Okay. But we haven't
heard --

    JOHN DAY: But I'm not an attorney, so...

    COMMISSIONER BRATNOBER: Okay. We haven't had
any weigh-in from others who may think that that's not
right.

    JOHN DAY: Oh, yeah. You'll hear -- you'll
hear -- yeah, you'll hear others who say it's not
correct.

    COMMISSIONER BRATNOBER: I'm looking forward
to it.

    JOHN DAY: So, you know, I mean, that's not
something we really want to litigate.


    JOHN DAY: We're hoping that we can determine
something here. None of us want to go litigate that in
CC&Rs. But, again, I stand on the master association's
determination and their guidance to us stating that we
are in compliance with the CC&Rs. I haven't seen
anything -- I've heard people say that you're not
allowed to use that, there is no shared parking
agreement, but I've never seen anything from an
attorney -- or, you know, I've never seen anything else, so...

COMMISSIONER BRATNOBER: Okay. So just to kind of SWAG it, based on what you've said with the prior 88 seats -- I think is what you said -- versus what you -- I mean, you're roughly looking at half, even if you fill up the patio? Okay. In terms of how many people will be served at the restaurant.

Thank you very much.

JOHN DAY: Uh-huh.

CHAIRMAN STEVENS: Okay. Other questions for staff or the applicant?

COMMISSIONER ANSOTEGUI: Madam Chair?

CHAIR STEVENS: Ms. Chair Ansotegui.

COMMISSIONER ANSOTEGUI: I have one more for staff.

Leon, Saint Alphonsus, in written testimony, suggests a condition of approval that could limit the number of combined indoor and outdoor seating, and you mentioned earlier that the code doesn't count outdoor seating.

Is that a condition -- that type of condition something that we have that we can do?

LEON LETSON: Yeah, Chair Stevens,

Commissioner Ansotegui, yes, certainly, it's at the
Commission's discretion to say, you know, a maximum of
total seats would be this, and put them wherever you
want, indoor, outdoor. That is something that you can
do.

You know, again, I would just -- I would only
cautions that our development code does not count outdoor
seating. Staff has put a condition in there to try to
navigate that a little bit, but there just isn't a
section of our code in the planning and development code
that concerns itself with outdoor seating.

The building code does have an occupancy load.
As Mr. Day mentioned, one occupant per 15 square feet.
And I'm not going to do all of that math. There's lots
of numbers in front of you. But that would,
especially, allow for 27 occupants on the patio, and
the need for 9 additional parking spaces, if you
wanted -- I think someone asked that question earlier,
what would we actually be looking at from a
parking-demand standpoint based on what the building
code defines for an occupant for outdoor seating area.
And I think that's in the Givens Pursley memo as well, a
breakdown of that math, so...

CHAIRMAN STEVENS: Other questions?
COMMISSIONER GILLESPIE: Madam Chairman?
CHAIRMAN STEVENS: Commissioner Gillespie.
COMMISSIONER GILLESPIE: So Leon, including Parking Lots 1, 2, 3, 4, the on-street parking, and the 14 that are -- I guess the 14 might be included in the 1, 2, 3, 4 -- how many total parking spots are we talking about, roughly?

LEON LETSON: Commissioner Gillespie --

COMMISSIONER GILLESPIE: 300?

LEON LETSON: -- I'd have to go back and evaluate the 2018 parking study. And I can pull that up if we'd like to take a moment to look at that.

COMMISSIONER GILLESPIE: Yeah, I'd just like to know, roughly, the number. Could we just count it?

LEON LETSON: Yeah. Yeah. I think that's -- I believe that's identified in that 2018 --

COMMISSIONER GILLESPIE: Oh, if the applicant knows.

CHAIRMAN STEVENS: Oh, you know what, I cannot -- sir, I can't have you just speaking from up there. We'd love to have you come up and answer the question, but I can't have you speak from the audience, because then we can't get it on the record. So -- and then counsel doesn't know what you said.

LEON LETSON: Yeah, if the applicant would like to get to that answer faster, I'm all for it.
COMMISSIONER GILLESPIE: That would be great.

Thank you.

LEON LETSON: It's in the packet, though.

CHAIRMAN STEVENS: Mr. Day, go ahead.

JOHN DAY: Okay. I'm sorry. Yeah, I believe it's in the 320, 330 range somewhere. Don't quote me on there, but it's in that range.

COMMISSIONER GILLESPIE: So I have a question now for Mr. Fritchman from SENA.

CHAIRMAN STEVENS: Okay. Great.

Mr. Fritchman.

COMMISSIONER GILLESPIE: Mr. Fritchman, so we've heard testimony that there's 330 parking spaces available in Bown Crossing. Why is it that after being asked to go to arbitration and try and negotiate this out, you guys were, in the end, again unsuccessful, and now we're haggling about less than, what, 5 -- 4 -- 3 percent of these total spots?

I'm just a little baffled at everybody as to why this has been so hard to do when we've got 300-plus parking spaces to play with for this problem? I'm baffled.

FRED FRITCHMAN: Commissioner, SENA was not a party to the negotiation to the mediation, so I really can't speak to what transpired with that.
Our board has voted to support the neighbors who, virtually unanimously, oppose a parking reduction for this project based on a lack of available parking. And folks who've been out at Bown Crossing, it depends on the time of day you're there, but it is very common to have a difficult time finding parking.

COMMISSIONER GILLESPIE: I have another question, Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So did SENA take into account the proposed hours restriction on the restaurant?

Did you guys really debate this or did we just -- you just hear from people who were a little bit unhappy because they can't get to an agreement and then -- so you guys took that position?

Did you really consider the effect of the restaurant restriction?

FRED FRITCHMAN: It -- well, the -- this was an issue in the previous application. This was proposed to be a breakfast restaurant, so nothing's really changed as far as that goes. It was always going to be an early morning use. And I believe the board didn't see that there was -- that the application had changed significantly to merit a change in our position.
Certainly, the neighbors didn't see a significant change.

COMMISSIONER GILLESPIE: Thank you.

CHAIRMAN STEVENS: Other questions for staff or the applicant?

I have got one. This is for Leon. There was -- I can't remember which member of the public brought it up, but something regarding the subtraction of mechanical space, and I was just hoping that you could address that so we could have a response from the City on the record regarding that point.

LEON LETSON: Yes, Madam Chair, you know, it's not typical to pull that out. It was something identified in the floor plan by the applicant. So considering the very zeroed-in look at all of the uses occurring within this building, staff thought it appropriate to throw in the fact that nearly 1,000 square feet of the building will be dedicated to storage and mechanical space, so not seating areas for, you know, tenants of the building or people coming to visit the different retail spaces.

So I should note that, you know, we don't typically pull out that in calculating parking demand. And so it was just a function of the floor plan being provided the way that it was, and staff thought that
level of analysis was worth providing the Commission.

CHAIRMAN STEVENS: And then another thing that none of my fellow commissioners have asked yet, so I'll go ahead and ask it: With regard to the rezone, if I understand it, the existing zone -- I understood what you said with regard to allowing some uses that we don't want, perhaps, in this area, but with regard to what's being requested for us tonight -- or to us tonight, the CID -- the existing zone actually does allow those requested uses, and we, as a commission, have the opportunity to limit it -- the development in the same ways that the PC zone does; is that correct?

So, really, the only effective thing that's happening here is the reduction in parking that comes with the PC zone. And then in addition to that, it makes it look like the reduction that they're actually asking for is small -- smaller; is that --

LEON LETSON: Yeah, Madam Chair --

CHAIRMAN STEVENS: -- is that true?

LEON LETSON: You know, that's correct. The uses proposed are allowed, both within the C-1 and the PC zones. Again, I'll direct your attention to the current project parking table in front of you. There's a reason why we went 23/19, because we wanted to show you, without the PC zoning, 23 spaces are required, 14
are being provided, so that would be an overall reduction of 9 spaces versus 5, which are allowed through the PC zone.

You know, if the property is not successfully rezoned, then we'd be looking at a reduction of 9 spaces. The condition, as written, in the staff report suggests 14 spaces to support the proposed development. So we're not identifying a number of spaces to be reduced long-term. It's, basically, whatever use you approve here is going to be 14 spaces. And that's kind of at the -- in front of the Commission to decide if 14 is enough.

CHAIRMAN STEVENS: Okay. Other questions for staff or the applicant?

COMMISSIONER SCHAFER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: A quick question for the applicant.

It may have gotten lost -- it may have got lost in the mix, or maybe I just lost it. Are you or are you not in support of the proposed limitation of hours, the operating hours?

JOHN DAY: We're not, necessarily, in support of those. We think that that's a little bit burdensome. Nobody else out there is limited in hours, and so we
think that's a little bit overreaching.

And I would like to say that my client here
did remind me that I misspoke. The restaurant -- the
breakfast concept was what we had previously submitted
or were proposing. This concept is more of a bakery
concept, sandwiches, quick -- you know, quick grab and
go. By sheer limitation of parking was going to
determine how many seats we have.

A 30-seat restaurant, sit-down restaurant
couldn't survive. So we're not looking at a 30-seat
sit-down restaurant. It's more of a breakfast -- or
excuse me -- bakery concept, grab and go.

COMMISSIONER SCHAFER: Okay. Thank you.

LEON LETSON: Madam Chair?

CHAIRMAN STEVENS: I have one other -- oh,
sorry, Commissioner.

Go ahead, Leon.

LEON LETSON: I would like to state -- kind of
clear up a point made earlier about number of parking
spaces available.

So we did look at the 2018 packet that was
provided both to you and the public and City Council,
and including the 14 provided on this site, it would be
298 parking spaces within Bown Crossing. So I just
wanted to get that number out there.
CHAIRMAN STEVENS: And those are the ones that are in the parking lot, not on the street?

LEON LETSON: Correct --

CHAIRMAN STEVENS: So there would be additional --

LEON LETSON: -- those are the private lot parking areas.

CHAIRMAN STEVENS: Okay. And then I -- I just wanted to, for the record, make clear -- or ask this point of clarification.

These parking spots that we're talking about are actually just for the restaurant alone, so the rest of the building would have to remain vacant, is that right? Or how does that -- or does it -- is it -- sorry, or does it include also the vacant space? And we're talking about the reduction for the entire building.

LEON LETSON: So, Madam Chair, we're talking --

CHAIRMAN STEVENS: I just wanted to make sure it's --

LEON LETSON: -- about reductions for the entire building.

CHAIRMAN STEVENS: Okay.

LEON LETSON: So it would be the 30-seat
restaurant, and then the two retail spaces. The 30-seat restaurant, per our development code, would require 10 parking spaces. So you could park the restaurant with this parking lot. The remaining retail, it is -- makes up the other 13 spaces required per the development code.

And so only 4 would be provided of the 13 required for the retail. And you could -- you can slice that pie any way you want. You know, someone's going to get less parking. That's why we're here with a parking reduction, so...

CHAIRMAN STEVENS: I -- that was very clear to me, but there was -- seemed to be some -- unclear from the public, from the communications we were getting.

So other questions? This is your chance.

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I heard a reference to Saint Al's, but I didn't get it or follow it. So I was wondering -- if someone did have a question about that, I don't know what it was going to be, so I can't ask it.

CHAIRMAN STEVENS: It sounds like you have a question you want to ask about Saint Al's. Would you like to take this opportunity to ask it now?
COMMISSIONER GILLESPIE: No, I don't have one.
I just thought you did.

CHAIRMAN STEVENS: No.

COMMISSIONER GILLESPIE: Okay. Thank you.

CHAIRMAN STEVENS: My questions about the parking access between the different parcels has been answered by --

COMMISSIONER GILLESPIE: Okay.

CHAIRMAN STEVENS: -- questions that others have asked. Okay.

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Put on your microphone.

There you go.

COMMISSIONER BRATNOBER: Okay. Thank you.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So I'm just befuddled by the last statements by the applicant. Because we've been thinking 30-seat, sit-down restaurant. But I realize uses can change under the restaurant designation. But what I heard you describe and then say, 30 seats just wouldn't survive, I'm confused now with the bakery concept and that sort of thing.

CHAIRMAN STEVENS: Okay. So I see we have a new gentleman coming up, so just be sure to state your name and address for the record, please.
BOYD YEE: Sure. My name is Boyd Yee.

CHAIRMAN STEVENS: And if you'd pull that --

BOYD YEE: Boyd Yee. I represent the Yick Yee Family Company. And the point I was trying to make, I had two restaurants in this town; I had the TGI Fridays out at the mall, I had a Wingers in Meridian.

So the point we're trying to make on the 30 seats, there is not a restaurant concept that has full hours that can make it on 30 seats. How many turns do you have to have on 30 seats?

So our emphasis is on the bakery concept, like Great Harvest. Yeah, you see one on Fairview, and you see one out at Eagle. We're also thinking of maybe a quick-service sandwich shop. And so, yeah, the 2:00 o'clock thing doesn't help us at all.

So that's the only point I wanted to make. You can't make it with a 30-seat restaurant. Any questions?

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So, basically, you can't make it with a 30-seat restaurant under the constraints of the hours? Is that the full sentence?

BOYD YEE: No. I'm saying there's a lot of emphasis put on that we were going to put a 30-seat
restaurant in.

COMMISSIONER BRATNOBER: Uh-huh.

BOYD YEE: And my emphasis is if you owned a 30-seat restaurant with no limitations on the hours, you cannot make it financially.

COMMISSIONER BRATNOBER: Uh-huh.

BOYD YEE: And so the 30-seat was for a breakfast concept or a quick service concept or a sandwich shop. Okay? And so when you say 6:00 to 2:00, that kind of limits, you know, the sandwich shop, the bakery. We're thinking about the people that are coming in after 2:00 to buy bakery items or a loaf of bread. So 6:00 to 2:00 really doesn't work, and that was our contention.

COMMISSIONER BRATNOBER: Thank you.

BOYD YEE: Okay. I just wanted to make another point.

CHAIRMAN STEVENS: You know what --

BOYD YEE: Go ahead.

CHAIRMAN STEVENS: The applicant's time for making a presentation is over --

BOYD YEE: Okay.

CHAIRMAN STEVENS: -- and we're now at questions and answers. So if you want to say something, I would suggest that you wait until the rebuttal time.
Right.

CHAIRMAN STEVENS:  Okay. Uh-huh.

Other questions for staff or the applicant?

COMMISSIONER SCHAFER:  Madam Chair?

CHAIRMAN STEVENS:  Commissioner Schafer.

COMMISSIONER SCHAFER:  So I'm newer to the Commission. I missed the party last year about CC&Rs and the history here, so bear with me as I'm learning.

Based on the testimony so far this evening, it sounds like the library and Saint Al's are overparked. Of their own volition, they decided they had some extra asphalt, and they wanted to just pave some extra land.

Can you help me just kind of walk through how we're -- I'm befuddled, as well, along with Commissioner Gillespie, about how we're in a situation we're haggling over five spots when we've got extra spots, theoretically, by code, at some of the other parcels that are right across the parking lot from this proposed project.

LEON LETSON:  Madam Chair, Commissioner Schafer, yes, both the library and Saint Al's specifically requested parking above the maximum allowed by the development code, so that was included in the entitlement process for the construction of those spaces. They are technically within the Bown Crossing
area, which is highlighted here in blue.

As I mentioned earlier, parking is not assigned, so people, theoretically, could park in the Saint Al's lot and make their way to Bier: Thirty or this new tenant. Under the way things are operating right now, that is, technically, possible.

But, yes, both of those uses did request more parking than what is typically required by the development code.

COMMISSIONER SCHAFER: Okay. Thank you.

CHAIRMAN STEVENS: And if I could, for Commissioner Schafer's -- sir, we'll have time for public testimony after we're done -- I think if I could just follow up for you, I think what you're asking is why there is no agreement between them when one party thinks that there is, and they should be able to use the parking on the other side?

COMMISSIONER SCHAFER: Well, that's certainly an ongoing question in my mind. I don't know if we're going to get a resolution to that answer tonight. So, again, I'm going to play up my ignorance on the topic, and me being a rookie up here, that, you know, at the high level there's 300 parking spaces within -- what's the area we're talking about here, you know, total?

LEON LETSON: 1,000 foot --
COMMISSIONER SCHAFER: Yeah.

LEON LETSON: -- 1250 radius, I guess, from the center.

COMMISSIONER SCHAFER: Yeah. So it's a struggle, I guess, is where -- I'm trying to understand how we've gotten to this point and how there's really an issue, you know, when there's this many parking stalls already at the development.

LEON LETSON: Madam Chair, Commissioner Schafer, again, it was quite the party last year just discussing the history of the development at Bown Crossing because, as we've mentioned, there's never been a formalized, City-approved parking agreement.

It was -- you know, for several years and several developments over the years, those CC&Rs were referenced as how we're all going to get along and make this thing work. And through this project a lot of light was shown -- shined -- on those CC&Rs.

And, ultimately, the City -- at the highest level, the Council said, we can't make a decision to -- to allow for the reduction of your parking based on this perceived belief that parking is, indeed, shared. Despite the fact that it's functioning that way right now, we, as a Commission and as City Council can't say, well, you've got your five spots over in the library
space, and we're good to go. That was -- we tried that; it didn't work, so...

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: Just one more thing on that topic. Is there anything preventing Saint Al's, the library, whatever, to put up a bunch of signs that says, "Library Parking Only"?

Because I think that's where you get to, now that's not accessible to us anymore and it raises the concern.

LEON LETSON: Yeah, Madam Chair, Commissioner Bratnober, there is a section of our code that says if you assign parking, now you need 20 percent more than what the development code requires, at a minimum. So that could result in some very interesting evaluations of who's got enough parking to support a 20 percent increase like that.

I think the library and Saint Al's are probably in good shape. I think a lot of the smaller users might struggle to, indeed, provide 20 percent additional parking over what they are required by our code today.

COMMISSIONER BRATNOBER: Thank you.

LEON LETSON: And so that is, technically,
something that, you know, our code compliance --

COMMISSIONER BRATNOBER: It's a risk.

LEON LETSON: -- division could get involved with and say, no one has enough, and you can't assign your parking, and that would be an interesting conversation.

COMMISSIONER BRATNOBER: Thank you very much, Leon.

CHAIRMAN STEVENS: Okay.

COMMISSIONER SCHAFER: Madam Chair?

CHAIRMAN STEVENS: Yes, Commissioner Schafer.

COMMISSIONER SCHAFER: One more quick follow-up, Leon. I'll be gentle.

Just to confirm, and Saint Al's and the library and all of the businesses in Bown Crossing are all part of the same CC&Rs; correct? They're all playing by the same rules; and, apparently, everybody's getting along and everybody loves Bown Crossing, but we're all arguing over five parking stalls?

LEON LETSON: Yeah, Madam Chair, Commissioner Schafer, I'd say, in a nutshell, that's a way to boil it down. That's two analogies mixed together. But, you know, I --

COMMISSIONER SCHAFER: All right.

LEON LETSON: Sorry. That was my English
background jumping out at me there. I -- there is a
master set of CC&Rs that discusses how everyone is going
to get along out here. And I think you'll hear some
testimony tonight that dives into those details a little
bit more.

As much as we've tried to avoid the CC&R
discussion here, it feels like we're not going to get
away from that. And I think that, again, you will hear
some testimony that says, well, parking can be shared,
but you've got to meet these criteria in order to share
it, and that's where the crux of this situation exists,
so...

CHAIRMAN STEVENS: All right. Anything else?
COMMISSIONER SCHAFER: Thanks.
CHAIRMAN STEVENS: All right. This is your
last chance, everyone.

PUBLIC TESTIMONY

CHAIRMAN STEVENS: Okay. The first person on
the sign-up sheet, Steve -- I'm having a hard time with
the writing -- on Independence Drive. And then that's
followed by Deborah Nelson.

STEVE DUNLAP: Steve Dunlap, 2342 East
Independence Drive in Boise.

Chairwoman Stevens and Commissioners,
listening to the discussion here, some information has
come to mind that you may not be in possession of, so let me start here.

Parking: Whatever agreement exists or doesn't exist, it's already shared. As a frequent user of Bown Crossing, I, about half the time, walk, half the time drive my car. I can assure you, we customers park wherever we can find a spot. And sometimes that's right behind the Tavern, sometimes it's clear over in the library or Saint Alphonsus lot.

The second point is Bown Crossing, as Mr. Letson pointed out, has enjoyed tremendous growth, especially Harris Ranch has contributed a lot of business. It's much more difficult to get into the restaurants and businesses. It's also much more difficult to park.

The one other point that hasn't come up at all is that there's a big school surge at the -- in the morning and in the afternoon for school drop-off and pickup at Riverside Elementary. That occurs mostly over in the corner of the parking lot by Saint Alphonsus, but contributes a significant bubble to parking demand.

One other thing that hasn't come up at all is this parking area is used for greenbelt access. People park here and walk across the street to take a hike on the greenbelt to Barber Park or along the nature path.
there.

And the last point is at the current site of this development, there are typically between 5 and 15 cars parked. So whatever we say that this development is going to add to the parking of Bown Crossing, it's not. It may well be a net loss.

I can -- as a frequent user of Bown Crossing, I can tell you that availability is already strained, and adding this place is going to result in significant additional strain.

One of the other people interested in this issue told me that in a discussion with staff he believed that the Planning and Zoning staff thinks that the opposition to the parking reduction has dropped off or dried up, and I can assure you that's not the case.

I and other participants have become very tired and frustrated by this process that has dragged on through months and many meetings and deferred meetings. The requester seems to be given endless opportunities to make an end run around the initial determination.

And the City -- my -- I have appeared before, and I've submitted comments in writing, and I'm just getting a sense, myself, that this whole citizen input thing is kind of an exercise in futility. But I'm here again, and I do ask you again, please deny this parking
reduction request.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Dunlap.

Deborah Nelson followed by Ross Caulum.

STEVE DUNLAP: Pardon me?

CHAIRMAN STEVENS: Oh, Deborah Nelson is up next.

STEVE DUNLAP: Okay.

CHAIRMAN STEVENS: She's right behind you.


Three minutes is going to be tough. I'll do my best. I also want to revise what we'd planned to say to try to address some of the comments and questions that have come up.

But I -- Ross Caulum will be speaking after me, and he will address specific concerns about the location of this development right next to Saint Alphonsus' clinic. And that proximity is what's so important to take into account when you're thinking about the large number of parking spaces that may be available in the area.

I think you'll hear a lot of testimony tonight telling you they're not actually available. But in any case, for the clinic, it is specific to location. Also,
there was questions about the CC&Rs. We had not planned to talk about that tonight because the applicant's been clear that they're not asking for anything under the CC&Rs after the City Council clearly rejected that. But just briefly, the CC&Rs do allow shared cross-access parking for -- as an easement, but not a reduction in the parking that your business brings forth at the beginning. And so that's the significant difference here.

So here previously, the applicant asked for a 24-space reduction, and they -- and the City denied that for a number of reasons, including reliance on the CC&Rs, saying the use was too intense for this location, it was taking up too much of the site, didn't allow enough on-site parking, but encouraged them to come back.

And so they have. They've returned with a building that is virtually the same size, though, with basically the same mix of uses, the same footprint, leaving room for the same on-site 14 parking spaces. And so -- and they -- but their application just, technically, requests a reduction of nine spaces. That's their parking reduction.

As Leon noted, the variable here is the seating, going from 80 seats to 30 seats. Otherwise,
this is, basically, the same thing. Any parking reduction here will have a significant impact on businesses, in particular, Saint Alphonsus. But Saint Alphonsus agreed, to be a good neighbor, they could live with nine. They told the applicant that before they filed.

All that we are here to ask tonight is that it truly be limited to nine, that the right conditions are put in place to make sure that the impact -- the actual impact is limited to a reduction of nine. From the comments that we heard from the applicant tonight about you can't have a 30-seat restaurant, I appreciate that. I appreciate that they have gone to a different kind of use here, and that could really help.

So they -- if that's the case, if they're looking at the bakery, the walk-in restaurant, that -- they should not have a problem with the cap that we're asking for, then, that would truly limit this to 30 seats. And that's got to consider indoor and outdoor.

Technically, yes, your code doesn't count outdoor seating; however, it allows outdoor seating. And as Commissioner Bratnober appropriately pointed out, they're asking for both a rezone and a conditional use permit. So you do need to take into account the actual impacts, not just the technical count of how you count
restaurants.

    And, again, for the style of restaurant
they're asking for, a cap of 30 that includes indoor and
outdoor shouldn't be a problem. And that's all we're
asking, is to truly limit that. On the retail use that
we pointed out in our written testimony, so I won't have
time to address it, they are three parking spaces short.
So the overall, they are short 21 spaces, not 5. We're
not talking about 5 spaces --

CHAIRMAN STEVENS: Time is up.
DEBORAH NELSON: -- we're talking about 21.

Thank you.

CHAIRMAN STEVENS: Thank you.
DEBORAH NELSON: Stand for questions.
CHAIRMAN STEVENS: We'll go ahead and go next
to Ross Caulum, followed by Bill Schilling.

ROSS CAULUM: Good evening. My name is Ross
Caulum. I'm Saint Alphonsus' regional real estate
director. And my office is at 1055 North Curtis Road in
Boise at Saint Alphonsus Regional Medical Center, on
their campus.

As you've heard, Saint Alphonsus does operate
the clinic immediately adjacent to the proposed
development. The main thing here is that our clinic
serves family practice urgent care, orthopedic, and
rehab patients. Those patients are not able-bodied, they're not able to walk hundreds of feet; they need immediate adjacent parking, and they cannot search on-street parking to go see their doctor.

So over 70 percent of our patients travel 2 miles, and over 50 percent of them drive over 5 miles to come and get healthcare from Saint Alphonsus. The treatment that we provide gives the urgent care medical needs on appointments or on an as-needed basis when the patients walk in. They arrive by car. They need that immediate, accessible parking.

We have, approximately, 20 providers and staff working from 8:00 a.m. to 8:00 p.m. The clinic is operating at less-than-planned capacity, and our expectation is our patient visits will increase, so our demand is going to go up.

So when you look at the practical matter of parking available today, it's because we're not operating at full capacity, as we speak. That growth in patient volume will increase, as we've seen the rooftops increase in the Harris Ranch/Harris Ranch North community.

Saint Alphonsus did build 55 parking spots. Why? Because our patients need it. The new development would have significant impact on our parking
availability. Their new drive aisle, to make for the appropriate circulation, actually removes, takes away two to three parking stalls from us, parking stalls that we built.

The proposed use for the patient -- excuse me -- the employees and customers, at best you've heard, is somewhere in the nine, five, seven. He threw all of the numbers around. Some of it is the definition of what the zoning is.

The practical matter is, when there's outdoor seating, there's a restaurant, be it a pickup and go, whatever, the practical matter is there will be cars. Those cars, when you look at the parking lot, will most likely park in Saint Alphonsus. We'll be the most dramatically impacted.

And so by other counts of methods and numbers, you could see the parking go over 45 under parked. Any parking reduction will negatively impact the patient care. The healthcare of the community will be hurt severely.

So what we want to do, as Deborah mentioned, we wanted to be a good neighbor, so we are willing to adapt and work with them. However, that is not what has come forward. And what we really ask is that our adverse impacts be limited, and, at the very least, we
respectfully ask that you adopt the conditions that we
requested within our letter.

    Thank you. And I stand for questions.

CHAIRMAN STEVENS: Thank you, Mr. Caulum.

Mr. Schilling will go next, followed by Per
Christensen.

BILL SCHILLING: My name is Bill Schilling. I
am a resident at 5253 South Boven Avenue in Boise and a
business owner at Bown Crossing. I have the optometry
office there.

    And I don't think I can add much more than
what my other opponents to this have said, other than
the fact that all of the current tenants are currently
operating with -- under the situation of limited
parking. And the parking is only getting worse and
worse as the developments in the area continue and
increase.

    So having a parking reduction presented is
going to further make that a worse-and-worse issue. And
that's, basically, all I have to say. So I've saved you
guys a lot of time, so...

CHAIRMAN STEVENS: Thank you for that.

Mr. Christensen followed by --

PER CHRISTENSEN: My point has been made, so
I'm going to pass.
CHAIRMAN STEVENS: Okay. Mr. Christensen is passing.

Mr. Fritchman, you're on here next. I assume that you are -- you've spoken; you don't want to speak independently?

Okay. Ryan Faber, followed by J.E. Givens.

RYAN FABER: Good evening, Council Members.

My name is Ryan Faber at 3072 South Bown Way. I'm the owner and operator of Eastside Cycles. I have been there for the last 11 years, which means that we were there before the library, before the bridge, when things were slow and the parking easy.

And we, myself and a lot of other businesses, have spent a lot of time making this area very busy and difficult to park in. I'm the father of a student at the adjacent Riverside Elementary; I'm a patron of the Bown Crossing businesses, and I get to see this on a day-to-day basis.

My daughter comes to work with me two days a week, and we walk from my shop over to the school there. And we get to see the traffic and the parking issues that happen at the peak time of parking for the school, at the same time that the -- even the limited business hours are going to happen, and all of the street parking is taken by parents, and most of Saint Al's and lots of
the library is all utilized during that time.

The -- as far as the parking study is concerned, while the number of businesses that are there has stayed the same, things have grown. I have grown -- our business has grown in number of transactions and dollars every single year that we've been there. There are more residents in that area, so it just continues to get busier and busier.

As to the street parking, they said 37 spots. The parking study was a little unclear as to how many were along the street. And I want you to remember that there are 20 businesses there. And so they share those, plus 9 residents above that, that all have to utilize that street parking as well.

This is not Hyde Park. You can't just walk another block, another four blocks, another eight blocks further. We are an island. The parking that's there is there. And as I continue to grow, as are -- my fellow business owners and entrepreneurs continue to grow, what's going to happen?

This isn't -- the growth isn't stopping, the growth is continuing to get bigger. In the master plan, this was intended to be a bank, and that would have been a perfect use of that. It was owned by Westmark Federal Credit Union until just a few years ago when the current
applicant purchased it or swapped it.

As a picture, a restaurant/bakery would have 6 to 10 staff members probably on staff at any given time, retail spaces combined would be 6 to 10, that would be 12 to 20 of the 14 spots that they are providing to be used just by their staff members.

There has been conversation about simply towing vehicles that are parked for this development in current Bown Crossing. As a business owner in there, that business in-fighting would be a cancer to all of us. It would dramatically kill the feel of the area. And to approve the conditional use permits here would simply be to ignore staff parking and functionally overturn the current decisions already made causing them to park in the current Bown Crossing parking, which is what we're here about, not joint parking agreements.

I'm open for any questions about --

UNIDENTIFIED SPEAKER: Time.

RYAN FABER: -- Bown history or otherwise.

CHAIRMAN STEVENS: Thank you.

RYAN FABER: Thank you.

CHAIRMAN STEVENS: Mr. Givens.

ERIK GIVENS: Good evening, Madam Chairwoman, Commissioners. My name is Erik Givens.

CHAIRMAN STEVENS: Why don't you go ahead and
pull that mic up just a little bit.

ERIK GIVENS: Certainly. Better? My business is at 3123 South Bown Way. My wife and I are the only staff that are regularly in the store, and we can't always guarantee, ourselves, that we have parking places. Now, immediately behind our store is a decorative planted area which just happens to have mailboxes on it. The opposite side of the parking lot from there are two dumpsters and a recycling dumpster. And those are all an enclosed area. So we rely on the goodwill of others to allow us to park.

Now, recently the library had a major function going on, and I pulled in -- we don't open the store until 11:00 o'clock. We're in, obviously, earlier than that. But the point is I pulled into the parking lot, and there was a parking spot left.

Now, does the library regularly have functions? No, they do not. This was extraordinary. It was extraordinary to see that many cars parked back there. I applaud the fact that Saint Al's and the library put additional parking places in when they did their construction. I think that speaks well of them.

The point is, is we all share the parking currently, either as employees or customers. And as was mentioned earlier, we're witnessing a net loss of
parking because a building is about to be placed where
many people currently park. And I don't think anyone's
ever taken the time to address just that. They want to
argue over small, insignificant numbers, but that number
becomes greater just as a result of that.

So, again, I agree with everything that the
opposition has brought up thus far. And it's important
that we all work together, because that's what's going
to make all of the difference in the world. I'm curious
now why it is after all of the mailings that I've seen
over many months of a 30-seat restaurant it has now
become a 30-seat bakery.

If you spend any time at Bown Crossing at all,
and you look at the outside seating that's available --
I'm talking now about the Tavern, I'm talking about
Locavore, Boise Fry Company -- if the weather is great,
people love to sit outside, and that's going to have an
impact, because those people have to get there somehow
to be able to take advantage of that outside seating.
And they're probably going to drive.

If you have any questions, I'd be more than
happy to... bonus.

CHAIRMAN STEVENS: Thank you. That's it for
the sign-up sheet. Is there anybody else in the
audience who came to testify who didn't get the chance
to sign up?

Okay. There's a few of you. If you could just come to the -- come forward, please, just to make it more efficient, and just sit in this front row for me. And then what I'm going to need each of you to do is there's a little, white pad of paper next to the podium; I'm going to need you to fill one of those out so you're on the record. Somebody's got to go first. And if you could fill that piece of paper out after your testimony, that would be great. Thank you.

PATRICK SPOUTZ: Commissioners, thank you. I want -- my name is Patrick Spoutz. I live at 912 West Brumback in Boise. And I want to speak in support of the parking reduction and the plan as proposed here today.

If demand in Bown Crossing, as everyone has pointed out, has grown without any additional new buildings, parking gets tighter. And that's kind of the natural effect of having a popular, great place that people like to go.

If we build enough parking to satisfy unlimited demand for free at all times for peak capacity, you might end up turning Bown Crossing into a parking lot, effectively, or a mall, and that's not what the place is really intended or desired to be.
So I'm in support of the motion to go with the parking reduction as asked. Thank you.

CHAIRMAN STEVENS: Thank you. Next?

ALLEN HUMBLE: Thanks for the opportunity to speak. I'm Allen Humble. I live at 1373 West Martin Street in Boise at South Boise Village.

The library is an interesting potential user of that property in a way nobody's mentioned. We have a new mayor, in some small part because of a contentious library project. We don't know where that's going. Some people love regional libraries, and we've got a regional library there, which certainly could be built and expanded upon. Its hours of use certainly could be changed, and most certainly its parking needs will change if either of those happen, certainly if both of them happen. And so you can't bet on something that's uncertain, but now you've got a card on the table that you didn't have played before.

And so to the extent that you can consider that, I think you should. Any questions?

CHAIRMAN STEVENS: None. Thank you.

ALLEN HUMBLE: Thanks.

CHAIRMAN STEVENS: Please don't forget to fill out a little, white sheet.

Up next?
ROBERT ELLIOTT: Hi. My name is Robert Elliott. I live at 1037 West Hale Street in Boise. And I am in support of the parking reduction. I go through Bow just about every single day, either on bike or on foot, and I think the idea that we're arguing over a few parking spaces to be a little ridiculous. It's a very walkable, bikeable area. It's right off the greenbelt, there are plenty of houses right in the area, and I don't see why walking or biking there is an issue.

CHAIRMAN STEVENS: Okay. Thank you. Don't forget to fill out a white sheet, please.

Is there anybody else who would like to testify tonight on this?

CHAIRMAN STEVENS: Okay. Hearing none, we'll have five minutes of rebuttal from the applicant. And if you did fill out a white sheet, just go ahead and leave them on that desk, and we'll pick them up after the hearing. Thank you.

REBUTTAL

JOHN DAY: Thank you, Chair and Commissioners. I guess I just want to address a few things that I've heard. And I guess, honestly, they bugged me a little bit, in that, how are we to -- I guess what I've heard is that, well, this could happen, that could happen. Are we to be held hostage while things could happen?
You know, I just -- I don't think that that's fair. But other than that, I really don't have anything more to say. So thank you.

CHAIRMAN STEVENS: Okay. Thank you very much. That closes the public portion of the hearing. How does the Commission --

BOYD YEE: Can I make a couple statements, please?

CHAIRMAN STEVENS: Oh, as part of the rebuttal, since you do have four minutes left, we'll go ahead and permit it. We'll reopen the hearing.

BOYD YEE: Again, my name is Boyd Yee. I'm representing the Yick Yee Family Company. So when we bought the property, we did our due diligence, you know, we had a preliminary title report made. I sent Chad Hamilton down and John to the City to see if there was any special requirements that we had to do on the property.

They couldn't find one, but what they did find was a recorded CC&R that said we, if we're an owner of that property, have the right to use that parking field. So that's where we're at. So we went ahead and purchased the property, and this has been an experience. And I guess I'd make a comment that those who oppose it, if you guys --
CHAIRMAN STEVENS: Sir?

BOYD YEE: -- want to buy the property --

CHAIRMAN STEVENS: Sir?

BOYD YEE: -- you're welcome to it.

CHAIRMAN STEVENS: I need you to direct your comments to us, please.

BOYD YEE: Okay. Yeah. So my point is, I hear that, you know, the building is too big, you can't do this, you can't do that. But to be financially feasible, we think we have the right square footage.

So that's my last comment. Thank you.

MOTIONS

CHAIRMAN STEVENS: Thank you. With that, we'll go ahead and really close the public portion of the hearing.

How does the Commission want to proceed?

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: I move we recommend the rezone CAR19-00022 and deny the conditional use permit CUP19-0064.

CHAIRMAN STEVENS: Okay. We have a motion -- a complicated motion, somewhat, by Commissioner Bratnober.

Is there a second?
COMMISSIONER STEAD: I'll second for conversation.

CHAIRMAN STEVENS: Okay. We have a second by Commissioner Stead.

Commissioner Bratnober.

COMMISSIONER BRATNOBER: Excuse me. In terms of the rezone, I mean, it's perfectly legitimate where it sits and the kinds of uses around there, to try to encourage more pedestrian/bike kinds of access that comes with that PC zone. It's been all over the map in terms of the parking issue, however.

The best I can ascertain is that we've got folks who have the larger parking lots concerned about the future, and that is their right because, after all, they're planning for the future, and a key part of our function is not just zoning, it's planning. So someone has to look out to the future, and that's partially in our hands.

In terms of where it is and where it ended up, it feels like the kind of reduction that's being requested is out of whack with what we're hearing in terms of the uses. So that's why I'm saying I believe that those additional parking spaces should be provided. And as far as the rezone, that's fine.

CHAIRMAN STEVENS: Further discussion?
COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So I'll be voting in opposition to the motion. And I'm going to turn to page -- I believe it's 113 of the staff report, the big pack. So this is where Leon, basically, goes through the CUP criteria.

And, to me, the crux of what we're discussing is will the proposed use -- if it complies with all of the conditions imposed, will it adversely affect other property?

I just don't think it will. I think, given the proposed parking, the restriction on the hours of the restaurant or the food service operation, the general parking availability in the area, the availability of mass transit, the fact that this is an urban-focused development, this is not the suburban mall, as, remember, the public pointed out.

I just don't think that the proposal before us is really going to have any material adverse impact on anybody else at Bown Crossing. And I think we are -- you know, it's clear what's happened. We're, basically, piling all of the consequences of ten years of decisions on the last parcel. And that's just not right.

And it's just not going to make, in my
estimation, a big enough difference to qualify, for me, for adverse impact. So I would support the rezone. I think it's a good rezone to do. I agree with that logic. But I also would support the CUP with the conditions as Leon outlined.

COMMISSIONER FINFROCK: Madam Chair?

CHAIRMAN STEVENS: Commissioner Finfrock.

COMMISSIONER FINFROCK: I agree with Commissioner Gillespie 100 percent. I think -- you know, I think you used a reference, "When the last one to the pool" -- or something -- "doesn't get in." I don't know what you said. It was a while back. But it, pretty much, looks like it's exactly that in this situation, where it's because he's the last parcel, the last applicant, that now we're having to pay the price for all of the decisions that have come before him.

And I also agree with some of the comments that were made as far as what our goal is of this particular activity center. And I do think if there's biking, and there's pedestrian -- ability to walk to some of these restaurants, then I -- so for that reason, I support Gillespie's -- and I will be opposed to that motion as well, at least a portion of it.

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.
COMMISSIONER STEAD: I was the seconder of the motion, but I wanted to, primarily, get the conversation going.

I would support the approval of the CUP. And I wonder -- well, I guess I would say, primarily because I agree with what my fellow commissioners have said. I also think, you know, when we did see this project the last time, we did ask them to revisit it and come back. And I appreciate the reduction from 80 seats to 30.

And our code, as we've mentioned, does not require us to look at the -- consider patio space. And I think it's sort of -- it levels out, because if the weather is good enough for people to want to sit on the patio, then we'll probably see an uptick, also, in the pedestrian and bicycle access to the neighborhood.

But I would be interested in hearing the Commission's thoughts on the restricted operating hours. I don't know -- I'm not convinced that that's required for this space, in part, because what Commissioner Gillespie said of trying to put all of the final -- you know, all of the restrictions on the last business.

If no other -- if other businesses have shared parking spaces with, perhaps, parking variances without restricted operating hours, it seems pretty oppressive, to me, to limit operating hours for just eight hours for
a business that is a restaurant, a bakery, or what have you. Really, any business.

CHAIRMAN STEVENS: Further discussion?

JAMES: No, just a legal point of order, Madam Chair.

CHAIRMAN STEVENS: Thank you, James, yes.

JAMES: I'd just like to clarify, after the last comments from -- in deliberation there, that -- echoing staff's comment that patio seating can be relevant to impacts from this development, even if that patio seating does not generate required parking for purposes of a starting point, table, that kind of thing.

CHAIRMAN STEVENS: Thank you. Any -- I'll actually take that as a perfect segue to what I was going to say, which is: I think what's bothering me about this -- notwithstanding my philosophical agreement with Commissioner Gillespie and others -- is that we denied this once before, and what's in front of us is, more or less, exactly the same.

And Council went and did the exact same thing, and here we are coming back and -- from what I'm hearing so far, anyway, most people want to deny it again -- or, I'm sorry, support it now. And I think what's in front of us is actually -- the building is identical. I did the calculations. The number of square feet is exactly
the same.

And when you take 50 seats out, and you add a patio, you're, basically, just playing with the code. And so I really think we're stuck in a position where we're going to -- I mean, if the Commission is going the way I think it's going, we're going to say, yes, when we've said -- to the exact same thing we said no to before, and Council said no to before, without really trying to make some of the changes that I think Council, back then, which is only a year ago -- and I know we have a different council, but, you know, that -- so I just -- I'm worried that we are dealing with, pretty much, the identical application and we're not making any changes.

So Commissioner Gillespie?

COMMISSIONER GILLESPIE: Madam Chairman, first of all, it's a great point. In my old age, I can't remember how I voted in 2018. I think I was for allowing it then for, basically, the same reason. So I'm in a little bit different position than maybe the Council or other members of this Commission.

But I think, to answer -- to try to answer your question, and it's not a complete answer, is I think the restriction on the hours of operation does cause a fairly significant, you know, parking shift in
the context of these 20 -- 14 or 23 spaces for this unit.

I think in the context of the whole development, I'm still back to the point, I don't think there's any adverse impact. So I didn't agree with the Commission's decision then or the Council's decision.

UNIDENTIFIED SPEAKER: Madam Chair?

COMMISSIONER GILLESPIE: So I -- but I think that is a -- the hours restriction is a meaningful change. I also think the Commission, today, tonight, could consider what Ms. Nelson suggested, which would be -- and what James, basically, put on the table for us -- was if we find that the number of seats, including the outdoor seats, is contributing to an adverse impact and is linked to an adverse impact, then we can add a condition that restricts those seats to mitigate that impact.

So -- and I would be open to that discussion. So if someone wanted to put forward a motion that said the maximum number of seats, period, indoor, outdoor is, say, 36 or 30, or whatever your number is, and that that is what's necessary to control the adverse impact, then I would be supportive of that.

(Simultaneous speaking.)

UNIDENTIFIED SPEAKER: Madam Chair?
UNIDENTIFIED SPEAKER: Madam Chair?

CHAIRMAN STEVENS: I think I heard first Commissioner -- no. Okay. I'm going to hear first from Commissioner Ansotegui and then Commissioner Bratnober.

COMMISSIONER ANSOTEGUI: Thank you, Madam Chair.

Given what Commissioner Gillespie just stated, I would agree that what we -- what we're left with is, really, since we haven't seen any real change in the square footage of this area, that we can condition a reduction in the functional use of it. And I think a good way to do that would be to limit the total seating to 30.

I mean, what we're looking at here is nine months out of the year you can double the seating in this place. So I would propose replacing the hourly restriction with the seating restriction so it would be that the combined number of indoor and outdoor seating would not exceed 30.

CHAIRMAN STEVENS: Okay. So --

COMMISSIONER ANSOTEGUI: When that time comes.

CHAIRMAN STEVENS: Okay. Perfect. So we need to get into some protocol here, some procedural stuff. So we do actually have a motion on the table to deny the CUP. We have a couple of options. We could vote on it
as it stands right now or somebody could offer a substitute motion.

UNIDENTIFIED SPEAKER: Are we still discussing?

CHAIRMAN STEVENS: No, I'm sorry, the public meeting is closed. We are deliberating now.

CHAIRMAN STEVENS: Sir, excuse me, we are having our deliberation now. You've had your opportunity. Thank you.

So those are the options, but we do have a motion, an existing motion on the table right now.

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So two things. The first -- and I hesitated to ask this because I was concerned about relevancy, but I think it establishes some sort of precedent. We've heard about, last one in the pool, I don't know, does something. And I missed all of that, so I'm trying to understand where the other occupants got a break that's not being -- here.

Now, let me give one exception, which is my second point, which is, I agree, the restriction of business hours is onerous, and I'm concerned it won't be
effective, because 6:00 to 2:00 means you're overlapping main business hours, you're overlapping the lunch hour, all of those things that are going to bring traffic in. And so my concern is it's onerous, and it doesn't -- it probably doesn't do the job.

But, again, to Commissioner Ansotegui, at the right time. But my concern is I don't -- I hear a lot of this stuff being lumped on, well, we're taking it out on this one. How?

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: And so to answer that question as best we can, and, again, without going into -- you know, we've been issuing permits here for 10 or 15 years. We heard Leon say, on the record, that previous businesses have been able to rely on the group parking and not just their parcel parking in order to meet parking requirements.

Now, I don't -- you know, I'm not saying that's -- you heard him say that. So that is the point that's been made is that we've had a breakdown in the community cooperation around the CC&Rs on this last parcel.

And that's the part I was frustrated at, unfairly, with Fred, because he wasn't a part of those
discussions. I apologize, Fred. But that's the "last person in the pool" problem --

COMMISSIONER BRATNOBER: Thank you.

COMMISSIONER GILLESPIE: -- I think. That's at least my understanding of it.

CHAIRMAN STEVENS: Okay. So I think we do have a motion on the table. We're going to have to take them separately.

So does anybody want to have any further discussion on the rezone at this point? We have a motion, at this point, to recommend the rezone to Council.

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I might suggest that the seconder and Mr. Bratnober, if they want to split their motion or revise it, that we just put a motion on the table on the rezone. So to do that, I would offer a substitute motion that we approve CAR19-33, for the reasons stated in the staff report, and with those terms and conditions.

CHAIRMAN STEVENS: Is there a second?

COMMISSIONER BRATNOBER: Second.

CHAIRMAN STEVENS: Okay. We have a motion by Commissioner -- a substitute motion by Commissioner
Gillespie. A second by, I think, Commissioner Bratnober.

COMMISSIONER BRATNOBER: Correct.

CHAIRMAN STEVENS: Okay. So is there any further discussion?

LEON LETSON: Madam Chair?

CHAIRMAN STEVENS: Leon.

LEON LETSON: I apologize to interrupt. I would only ask that if -- you know, with the rezone, we do have the development agreement attached with specific conditions. So if we're going to make changes to any conditions through a vote on the CUP, just please make sure that that's also reflected in the development agreement so that we don't have an approval with one set of conditions and a CUP with another set of conditions that don't sync up. So I'd just ask the Commission to keep that in mind as you move forward with whatever.

CHAIRMAN STEVENS: And tell me, does the development agreement go with the rezone?

Okay. So we do need to deal with that.

LEON LETSON: Typically that's the case, yes.

CHAIRMAN STEVENS: Okay. Thank you. Thank you for the reminder on that.

So we'll go ahead and table that while we continue discussion on how we want to proceed with the
CUP. So I heard some recommendations or some thoughts on how we might -- how the Commission might want to condition the CUP to make it more palatable.

Does anybody want to make a motion that we can take up first regarding the CUP that we can then include those -- assuming that that motion passes, we can include those same conditions on our development agreement when we deal with the rezone in the tabled motion?

Did I manage that right, James? Great.

COMMISSIONER GILLESPIE: Yeah, I'll give it --

Madam Chairman?

CHAIRMAN STEVENS: Okay, Commissioner Gillespie.

COMMISSIONER GILLESPIE: And, Commissioners, if you like, I'll give it a whirl. I move that we approve CUP19-64, as stated in the staff report, so I would include the restriction on hours in order to mitigate adverse impact. And I also would move that we add a condition that limits the total number of seats in the restaurant to 30 seats.

CHAIRMAN STEVENS: Is there a second?

COMMISSIONER ANSOTEGUI: Second.

CHAIRMAN STEVENS: Okay. We have a motion by Commissioner Gillespie, a second by Commissioner
Anstegui, with the conditions as stated in the staff report, and the addition of a condition that limits the total number of seats in the restaurant, regardless of whether it's inside or outside, to 30, but does maintain the hours restriction. And I will go ahead and just go on the record, and since I didn't mention it before, I am opposed to that -- oh, one moment.

Apparently, I cannot, just by executive order, table a motion. We need to take a vote to table a motion. So if we could call the roll on that, please.

UNIDENTIFIED SPEAKER: On which motion? We've got a couple --

CHAIRMAN STEVENS: This is to table the motion to approve the rezone, which I need to state for the record -- I apologize. So the motion that's on the table is a recommendation of the rezone. However, the maker of the motion mentioned it was CAR19-33. I just want to correct for the record --

COMMISSIONER GILLESPIE: Oh, yeah.

CHAIRMAN STEVENS: -- that we're actually dealing with 19-22.

COMMISSIONER GILLESPIE: Dang it.

CHAIRMAN STEVENS: And I want to make sure that the maker of the motion intended that.

COMMISSIONER GILLESPIE: Yes.
CHAIRMAN STEVENS: Okay. And so the motion is simply to table it so we can take up the CUP first and then revisit the tabled motion.

UNIDENTIFIED SPEAKER: Second.

UNIDENTIFIED SPEAKER: Bratnober is the motion.

CHAIRMAN STEVENS: No, we have a substitute motion that was substitute -- oh, do we need to -- as I understand it, a substitute motion, if the -- if it's seconded, automatically gets rid of that initial motion, and we don't need to vote on it.

COMMISSIONER BRATNOBER: Point of order, please. I understand -- point of order.

CHAIRMAN STEVENS: Where is the point -- oh, thank you. I just didn't know where it --

COMMISSIONER BRATNOBER: No, no problem.

CHAIRMAN STEVENS: -- was coming from. Commission Bratnober.

COMMISSIONER BRATNOBER: My understanding is that the substitute motion must be dealt with first and then you can get to the original motion. So I'm not sure if that affects the order of tabling, but...

CHAIRMAN STEVENS: Well, he can just withdraw
that, can't he, the original motion?

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I move that we

withdraw all motions pending before this body so we can
move on from a clean slate.

COMMISSIONER SCHAFER: I'll second that
motion.

COMMISSIONER GILLESPIE: And Madam Chairman,
I'd --

CHAIRMAN STEVENS: Okay. We have a motion by
Commissioner Gillespie.

COMMISSIONER GILLESPIE: -- like to call the
question, just to start all over.

CHAIRMAN STEVENS: Thank you. A very clean
way of doing it. The second by Commissioner Schafer.

Does anybody object?

Okay. Can we call the question, please.

ROLL CALL

THE CLERK: Bratnober?

COMMISSIONER BRATNOBER: Aye.

THE CLERK: Stead?

COMMISSIONER STEAD: Aye.

THE CLERK: Schafer?
COMMISSIONER SCHAFTER: Aye.

THE CLERK: Stevens?

CHAIRMAN STEVENS: Aye.

THE CLERK: Ansotegui?

COMMISSIONER ANSOTEGUI: Aye.

THE CLERK: Finfrock?

COMMISSIONER FINFROCK: Aye.

THE CLERK: Gillespie?

COMMISSIONER GILLESPIE: Aye.

THE CLERK: All in favor. Motion carries --

CHAIRMAN STEVENS: Thank you.

THE CLERK: -- with Commissioner Zuckerman abstained.

COMMISSION GILLESPIE: All right.

CHAIRMAN STEVENS: Okay.

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I would like to inquire as to -- before I make a motion, because I don't want to get it all confused with substitutes and people's changing. So it seems to us we're debating what conditions people can support on the CUP.

So I was wondering how people would respond to maintaining the restriction on the hours, which I think has a pretty big impact, and limiting the number of
seats in the restaurant to 30. So I just wanted to see, like, what do people -- who supports that and what different ideas do we have?

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: I do not support both levels of oppression on that, on restricting business hours and the patio seat count in that way. Yeah, I don't -- it seems like I heard from the public that it sounds like the good news is businesses in Bown Crossing are booming.

And it sounds like parking is an issue in the morning because of the school, and in the evening because of the restaurants, and I guess I don't -- if parking is a problem any time, I don't see us, then, you know, imposing these restrictions on the applicant as really solving any of the problems, except for creating, potentially, a lot more problems and inflexibility for the business owner.

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: I'm in agreement with Commissioner Stead. I think both of these things, restricting seating and restricting hours, can really turn bad for a business. And that's my concern is we're
putting some restrictions that could cause your business
to fail because we got in the middle of it. The issue
here is about parking, so let's talk about parking.

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: I'm in agreement with
the commissioners on this end of the dais as well.
Yeah, I think the -- the restrictions, it's that last
person in the pool; right? That's the problem. No one
else has those restrictions in Bown Crossing, so I don't
think it's fair for us to apply those restrictions to
the last parcel to develop in Bown Crossing.

I think there might be some opportunity -- I'm
open to more discussion regarding seating numbers
between both the patio and the restaurant. I'm a little
concerned that if we -- let's play out that they develop
the site, as is presented today, and we only allow 30
seats on the patio and in the restaurant; we've got a
big, empty patio front and center on a major corner of
the development. And that's a concern for me from a
design perspective as well.

So I'm certainly in favor of the rezone and,
in general, I'm in favor of the project. I think if you
look at the development in Bown Crossing, I think this
site plan works. We talk about parking numbers as if
they don't take up space, but in reality, you know,
parking takes thought, and it takes access points, in and outs, and arrangements, and if you look at the development of Bown Crossing, the way they've oriented this site and the building and the parking lot, it works with the rest of the development.

So I'm in favor of that, in general. I'm just concerned that putting restrictions on this last person, this last parcel to develop, is not the right thing to do.

COMMISSIONER ANSOTEGUI: Madam Chair?

CHAIRMAN STEVENS: Commissioner Ansotegui.

COMMISSIONER ANSOTEGUI: I'm in, mostly, agreement with that end of the table. And I think that both the time restrictions and the restrictions on seating, they go to the same end, and that is to limit parking -- or to require less parking.

And I really do feel that the seating should be restricted, the 30 overall, just because I think that would make the biggest difference, especially if it's the kind of operation that's being described, which would be a sandwich or a quick-access place.

There would be no need -- you really wouldn't want to limit time on that because it would be something that would extend into the afternoon. And to Commissioner Stead's point, lots of things going on all
of the time here.

CHAIRMAN STEVENS: Okay. Anything further?

We don't actually have a motion on the table, and I can't make one, so...

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So I really agree with Commissioner Schafer's point on the -- like, if we restrict the whole shooting match to 30, then you've got a big, old vacant patio. It's like, well, why is -- so I kind of agree with that.

The idea of an hours restriction is something we have done -- the City does, with some regularity, to mitigate adverse impacts all over the city. Normally it's because there's a nighttime-oriented use next to -- or a driveway-use next to a residential neighborhood, and we're worried about noise and light from headlights and stuff, and so we put in hours restrictions.

So, to me, it's not a big, giant, onerous new type of burden that the City is constructing. But, you know, frankly, I would support the CUP without the hours restrictions, but I think the hours restrictions is an acceptable way to reduce -- shift that adverse impact. It's going to make a big difference.

COMMISSIONER STEAD: Madam Chair?
COMMISSIONER GILLESPIE: So that's my sense.

CHAIRMAN STEVENS: Commissioner Stead?

COMMISSIONER STEAD: What if it was something more like 4:00 o'clock or something that gave them a little bit more flexibility?

COMMISSIONER GILLESPIE: I'm okay.

CHAIRMAN STEVENS: I'll just jump in here and say that I think that by restricting the hours at all, we're chasing a moving target. We've got, sort of, these goalposts that today exist as what they are today, and then tomorrow they're going to be over here because, you know, Bier: Thirty is going to shut down, and it's going to become a yoga studio or the school gets shut down because the demographics change.

I mean, I just think it's very poor policy for us to be sitting up here trying to identify what those trends are and make decisions based on it. I think if our concern is with parking and the one and only thing that we can actually do, if we really think it's a problem out there, is to limit the seats, period. The rest of it is a moving target. So I just -- I can't support that kind of a restriction on a business when things change dynamically all of the time, so...

UNIDENTIFIED SPEAKER: Good point.

CHAIRMAN STEVENS: So let's get to a motion,
if possible.

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: We always have the

opportunity to deny and say to come back. Let's not

forget that. So that is an option. Or, alternatively,

to approve as it is. So those are, obviously, options

that we have.

So Commissioner Stead.

COMMISSIONER STEAD: Madam Chair, I move that

we recommend approval for CAR19–22 and approve CUP19–64,

with the conditions stated in the staff report, minus

the hours of operation restriction.

COMMISSIONER GILLESPIE: Second.

CHAIRMAN STEVENS: Okay. We have a motion by

Commissioner Stead, a second by Commissioner Gillespie.

Does anybody have anything they want to add?

And do we just want to -- that means it is 30 seats

maximum; correct?

I want to make sure everybody is clear on --

COMMISSIONER STEAD: That's the proposal, but

my understanding is that's not written as a condition of

approval. I'm getting a thumbs up from Leon.

UNIDENTIFIED SPEAKER: Could you repeat your

motion, Commissioner Stead?

COMMISSIONER STEAD: The motion is to approve
the CUP as written in the staff report but subtraction of the condition of approval that requires limited operating hours.

CHAIRMAN STEVENS: And just so I'm clear, there is, then, no restriction on the seating; correct?

COMMISSIONER STEAD: Correct.

CHAIRMAN STEVENS: Okay. Okay. We have a motion on the table, a second on the table -- I mean, a second. Is there anybody who wants to discuss further?

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So the motion addressing the adverse impact clause or finding for the CUP, the staff report, as it's written now, relies, in part, on the hours of operation restriction to meet the adverse impact requirement of the CUP.

So I'm -- we're going to have to make an argument that without that hours of operation restriction, that we still meet that adverse -- no adverse impact requirement for the CUP. So I'm wondering if the motioner would like to make that argument?

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: I feel like that -- you
know, I've seen the significant -- I know that there's
discussion about how many seats would be on the patio,
so maybe we could separately address the maximum seats
on the patio. I would be willing to add a condition of,
say, a maximum of, I don't know, 10 or 20 seats on the
patio. I don't think -- I think to Commissioner
Schafer's point, I don't think we want an empty patio in
this activity center. So I am willing to amend to do
something like that, but I don't want to just see only
the indoor seating and a big empty patio.

COMMISSIONER ANSOTEGUI: Madam Chair?
CHAIRMAN STEVENS: Commissioner Ansotegui.
COMMISSIONER ANSOTEGUI: I won't be able to
support the motion as it stands. There needs to be
something in here that limits -- that limits parking in
some way, either through limitation of hours of
operation or through limiting the total number of seats
in the restaurant or, essentially, the functional square
footage of the building.

There won't be -- if we put a cap at 30, what
we're looking at is, like I said before, nine months out
of the year you could have up to 60 seats in the
restaurant, and so I don't think that -- there's --
people will sit outside if it's nice, or they'll sit
inside, or they'll grab -- you know, I don't know how
things work, but I do know that if there's outdoor
seating and there's indoor seating, there could be up to
60, and that -- I don't think that's tenable here.

So I would support a motion that, in one way
or the other, limits parking, either through the time
constraint or the time limitation or a total cap on
seating, because, as we know, we can't count outdoor
seating alone. You have to put a total cap on it.

COMMISSIONER BRATNOBER: Madam Chair, point of
order, please?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: I think we've got a
motion on the table, and we're awaiting a second or a
withdrawal.

CHAIRMAN STEVENS: No, we have a second.

COMMISSIONER BRATNOBER: I'm sorry. Pardon
me.

CHAIRMAN STEVENS: Yep.

COMMISSIONER BRATNOBER: I did not hear that.

Thank you.

CHAIRMAN STEVENS: So we're in discussion
mode.

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.
COMMISSIONER GILLESPIE: I wonder if it might be wise at this point just to call the question and vote and see where we end up on this motion just to keep things clear, because then if it passes, it passes; if it doesn't, then it extinguishes this motion, and we can keep deliberating if we like.

CHAIRMAN STEVENS: Correct. But we do have a motion on the table, and our way of doing business has always been to make comments before --

COMMISSIONER GILLESPIE: Right. No. No. I'm sorry.

CHAIRMAN STEVENS: -- and that is where we are. And Commissioner Anсотegui just made her comments. Does anybody else want to comment before we vote?

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So my concern on hours and seating, seating is often driven by other things, fire code and things like that. And it feels like we're trying to resolve a parking issue via seating. We're trying to resolve a parking issue via hours.

I mean, there is a simple choice, which is you provide the variance or you don't, plain and simple.
Trying to design these people's restaurant to fit a
parking issue seems to be like -- we're chasing our
tails a bit. Thank you.

CHAIRMAN STEVENS: Further discussion?
Okay. The motion on the table, again, is to
approve the rezone and the CUP as written, adding a --
withdrawing the condition, I'm sorry, about the hours.

And will the clerk please call the roll.

THE CLERK: Bratnober?

COMMISSIONER BRATNOBER: Nay.

THE CLERK: Stead?

COMMISSIONER STEAD: Aye.

THE CLERK: Schafer?

COMMISSIONER SCHAFER: Nay.

THE CLERK: Stevens.

CHAIRMAN STEVENS: No.

THE CLERK: Ansotegui?

COMMISSIONER ANSOTEGUI: No.

THE CLERK: Finfrock?

COMMISSIONER FINFROCK: Aye.

THE CLERK: Gillespie?

COMMISSIONER GILLESPIE: No.

THE CLERK: Motion carries 5:2.

CHAIRMAN STEVENS: I don't think that's right.

THE CLERK: I'm sorry, did I do opposite
what --

CHAIRMAN STEVENS: I believe the motion failed.

THE CLERK: Motion fails 5:2.

CHAIRMAN STEVENS: Yeah.

THE CLERK: Sorry.

CHAIRMAN STEVENS: I think that's right. Okay. So I think we know where the Commission stands. Does anybody care to offer a motion that would put some level of restriction on the restaurant as we --

COMMISSIONER BRATNOBER: Madam Chair?

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So I'll -- I'm going to take it separately. Okay. I'm just going to move on the seat -- on the CUP. I move that we deny the parking reduction for CUP19-0064.

CHAIRMAN STEVENS: Is there a second?

Okay. Motion dies for lack of a second.

COMMISSIONER GILLESPIE: Madam Chair?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I move that we approve CUP19-64 with all of the terms and conditions as stated in the staff report.

COMMISSIONER SCHAFTER: I'll second that motion.
CHAIRMAN STEVENS: A motion by Commissioner Gillespie, a second by Commissioner Schafer.

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: For those of you keeping score at home, this is the motion that includes, simply, the hours of operation restriction.

CHAIRMAN STEVENS: Is there further discussion?

COMMISSIONER ZUCKERMAN: Madam Chair?

CHAIRMAN STEVENS: Commissioner Zuckerman.

COMMISSIONER ZUCKERMAN: I'm going to oppose the motion on the grounds that the hours restriction -- when I'm looking through the 2018 parking report, the hours restriction doesn't line up with what parking is available and what parking is not available, so I don't think it's an effective way at minimalizing the parking issue, and I think we should look at a motion that deals with limiting seating itself.

CHAIRMAN STEVENS: Thank you. Anything further?

COMMISSIONER BRATNOBER: Madam Chair, I agree with Commissioner Zuckerman's analysis, with the exception of the seating part. But, like I mentioned before, it seems to me this -- these hours still fall
plop in the middle of lunchtime, which is -- if you've got a bakery, you know, and sandwiches, that's where you do it.

CHAIRMAN STEVENS: Okay. Will the clerk please call the roll. And, again, the motion is to approve exactly like it's written in the staff report.

THE CLERK: Bratnober?

COMMISSIONER BRATNOBER: Nay.

THE CLERK: Stead?

COMMISSIONER STEAD: No.

THE CLERK: Schafer?

COMMISSIONER SCHAFER: Yes.

THE CLERK: Stevens.

CHAIRMAN STEVENS: No.

THE CLERK: Anotegui?

COMMISSIONER ANSOTEGUI: No.

THE CLERK: Finfrock?

COMMISSIONER FINFROCK: No.

THE CLERK: Gillespie?

COMMISSIONER GILLESPIE: Yes.

CHAIRMAN STEVENS: Okay.

THE CLERK: Motion denied; correct?

CHAIRMAN STEVENS: Yes. I just knew I wasn't supposed to say it.

THE CLERK: I'm very confused.
CHAIRMAN STEVENS: I can figure one thing out tonight. Okay. Folks, I think that what we're looking at is a motion, that I can't make, to approve this with a limit on the seating. I think that's where we're going in terms of trying to get an approval, get a motion passed tonight. So can somebody make that motion?

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: I approve [sic] that we recommend approval for CAR19-22 and approve CUP19-64, minus the limitations on operating hours, including a limit of 40 seats maximum, inside and outside.

CHAIRMAN STEVENS: Is there a second?

I'll second that. I can do that.

COMMISSIONER GILLESPIE: So, Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Just a point of clarification for the record: So it's 40 seats for the restaurant total, including inside and outside; we're removing any restrictions on the hours of operation; and we're amending the development agreement to include the restriction on seats; is that correct?

CHAIRMAN STEVENS: Correct. Seconder agrees.

COMMISSIONER GILLESPIE: I will support that
motion.

COMMISSIONER STEAD: Madam Chair?

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: I think most of it has been said, but I guess I don't see limiting the operating hours. I know that it's been done in -- by the City in the past, which makes a lot of sense when there's a neighborhood who would be adversely affected by noise or, you know, light, or as the case might be, but I -- it sounds -- what I've heard from the public is that those limited operating hours really wouldn't impact the parking situation very much. And, as it's been said up here, that perhaps the only way we can do that is by limiting the seat count.

I think that allows the business owner a little bit more flexibility to -- if the business needs to change or, you know, within those constraints, they still -- it will still impact the parking, hopefully in a positive way, but give the business flexibility.

CHAIRMAN STEVENS: Further discussion?

COMMISSIONER GILLESPIE: Madam Chairman?

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So, obviously, we're slightly amending the staff report. So I would just say that I think the seating restriction will serve to
significantly mitigate the adverse impact, and so I think that criteria is met within the CUP, so I'll be supporting the motion.

CHAIRMAN STEVENS: Is there anything further from anybody else?

Okay. Will the clerk please call the roll.

THE CLERK: Bratnober?

COMMISSIONER BRATNOBER: Nay.

THE CLERK: Stead?

COMMISSIONER STEAD: Aye.

THE CLERK: Schafer?

COMMISSIONER SCHAFER: Aye.

THE CLERK: Stevens?

CHAIRMAN STEVENS: Aye.

THE CLERK: Ansteguhi?

COMMISSIONER ANSTEGUI: Aye.

THE CLERK: Finfrock?

COMMISSIONER FINFROCK: Aye.

THE CLERK: Gillespie?

COMMISSIONER GILLESPIE: Aye.

THE CLERK: Six in favor, one opposed.

CHAIRMAN STEVENS: Thank you, everybody, for your patience. We're going to take a five-minute break and come back for Item No. 2.

(End transcription at 2:13:53 of audio file.)
2. **CAR19-00026 & ZOA19-00007 / Boise City Planning and Development Services**

Amendment to Chapter 11-05 (Overlay and Specific Plan Districts) of the development code to establish a South Boise Neighborhood Overlay District. The amendment includes limitations for duplexes and off-site parking lots. A rezone applying these standards to approximately 510 acres, generally bounded by Beacon Street, Division Avenue, Ivywild Street, Federal Way, Protest Road, and Capitol Boulevard is included. Cody Riddle

| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Jim Bratnober, Commissioner |
| SECONDER: | Milt Gillespie, Commissioner |
| AYES: | Ansotegui, Stevens, Gillespie, Finfrock, Bratnober, Zuckerman, Stead, Schafer |
| First Motion: | Commissioner Finfrock moved to recommend approval. Commissioner Gillespie second. No vote. |
| Second Motion: | Commissioner Bratnober moved to amendment to delete the second clause and add a one-year expiration to the overlay. Commissioner Gillespie second. Motion Passed. |

ALL IN FAVOR, MOTION CARRIED
CITY OF BOISE PLANNING AND ZONING COMMISSION

IN RE: )
CAR19-00026 & ZOA19-00007 / BOISE CITY )
PLANNING AND DEVELOPMENT SERVICES )
____________________________________)

TRANSCRIPT OR RECORDED PUBLIC HEARING

MONDAY, JANUARY 13, 2020

COMMISSIONERS PRESENT:

JENNIFER STEVENS, CHAIR
TAMARA ANSOTEGUI, CO-CHAIR
JIM BRATNOBER
JANELLE FINFROCK
MATT GILLESPIE
BOB SchaFER
MEREDITH STEAD
BEN ZUCKERMAN, STUDENT COMMISSIONER

TRANSCRIBED BY:

JEFF LaMAR, C.S.R. No. 640

Notary Public
(Begin transcription at 2:44:07 of audio file.)

INTRODUCTION

CHAIRMAN STEVENS: Thank you for those of you who stayed.

We will now move on to item No. 2. And this is ZOA19-7 and CAR19-26.

And we'll hear from Cody Riddle.

CODY RIDDLE: Thank you Madam Chair, Members of the Commission.

This proposal is a request to amend the Development Code and rezone property to adopt a new overlay district for the neighborhoods adjacent to Boise State University.

For a little background, Council -- well, in August the City received a request for a moratorium from the Southeast Neighborhood Association. They essentially asked that we stop permitting what they refer to as stealth dorms or higher occupancy housing. They're concerned with both duplexes and single-family homes on the substandard lots, specifically those with more than three bedrooms per unit.

They were focused primarily on the area south and east of the BSU campus. They believe those
units do negatively impact the character of their neighborhood. This was the second such request by the neighborhood association.

In spring of 2017, City Council did impose an emergency ordinance that required additional parking for larger duplexes. And that amendment effectively eliminated the ability to construct those four- and five-bedroom duplexes on a typical 50-foot wide lot.

That temporary restriction was replaced with a permanent amendment to the Development Code that included a floor-area ratio limit, as well as a requirement for additional open space with duplexes.

To enact a moratorium, Council needs to find imminent peril to health, safety, and welfare of the community. With the most recent request they did not. However, they did direct us, the Planning Team, to proceed immediately with the proposal that's before you this evening.

I want to be clear that neither the staff or Council felt that this was a final solution that we're proposing. It's probably far from it, and it's part of the first step in a much bigger effort. We do have a working group that will be exploring additional changes to the area. In addition to zoning we could look at changes to the way we look at -- regulate
parking in the area. We might also refine the boundary that's proposed.

So the basic amendment before you is somewhat of a stopgap measure, I suppose, with the intent to slow down some of the higher occupancy units while we get a handle on things. We will likely be back before you with additional amendments, either separately or as part of our new Development Code.

So at this point the amendment is quite simple. We're proposing, again, a specific geography that we previously showed, and within that area that duplexes would be prohibited on substandard lots, and then duplexes with more than three bedrooms on each side would require a conditional-use permit. Off-site parking lots, whether permanent or temporary, would also be prohibited.

The intent is -- or as drafted, these restrictions would only apply in the R-1 or R-2 zones that show up in yellow and the -- yellow and the lighter orange on the map. These are single and medium density residential zones. The intent is to protect these areas from transitioning into predominantly higher occupancy units that to a certain extent could really degrade the character of the residential neighborhood. There are obviously many other zoning
districts within the overlay, and those would be unaffected at this time.

I think a concern with any -- with the amendment might be unnecessarily restricting the construction of housing. As you can see here in the last, oh, nine or ten years, we've approved about 55 duplexes. Only 11 of those included three -- more than three bedrooms per side, and all but one was located -- all but one of those higher occupancy units was located in the proposed overlay.

That suggests that this amendment shouldn't have a negative impact on housing from a citywide perspective. Again, we're not suggesting that the construction of duplexes be prohibited, simply limiting those higher occupancy units in a specific geography. Those higher occupancy units will still be allowed even in the overlay, just outside of those two zones that I mentioned.

Lastly, the amendment proposes the prohibition of both permanent and temporary off-site parking lots. I think it's pretty clear that those have -- in the R-1 and R-2 zones have the potential to really negatively impact those neighborhoods. Demolishing homes for commercial parking lots is counter to a host of comp plan policies, as outlined in
As detailed in your packet, we believe the proposal is consistent with the approval criteria for the rezone and code amendment, it complies with the Comprehensive Plan, and that it will help preserve the character of the neighborhood and help us maintain a balance of housing type in this area. We also believe it is necessary to protect the general welfare of the public, specifically the residents of this neighborhood.

If existing homes continue to be demolished for higher occupancy duplexes and commercial parking lots constructed, we could -- a lot of the character of this neighborhood could be permanently lost.

Without the protections included in this amendment, we believe -- and likely future changes that we'll be bringing forward, the neighborhood is at risk of transitioning into a poorly planned extension of the BSU campus.

The amendment will help ensure a development pattern that is consistent with the neighborhood. And we want to be clear, it does not preclude students from residing in the area. It simply ensures that the development that does occur is of a scale and intensity that's consistent with existing
uses and those reasonably anticipated to develop.

So we are recommending or suggesting you forward this proposal to Council with the recommendation for approval this evening. I think you'll hear that there is some opposition to the request from builders and owners of property, as well as Boise State University.

I think it's unfair to say that there isn't some merit to that opposition. We're in a housing crunch, especially in terms of affordability. Anything that restricts housing isn't going to help with that. We need housing, and that includes dwelling units for students.

The newest duplexes, as you can see here, have come a long, long way since we started adopting codes to address duplexes. From an aesthetic standpoint, I think you'd be hard pressed to say they don't fit in. The question really is balancing the need for housing while maintaining neighborhood character. Both are important, and to an extent both sides of this issue are right.

I guess what I'm saying is we don't believe we're presenting the perfect, final solution to you this evening, but we believe we do have a good compromise.
Finally, I would say that you do have a letter of opposition from BSU. And I believe they're here to speak this evening. I believe their concern is primarily the area you see here outlined in blue. They're starting a focused planning effort of their own with the neighborhood in that area.

That area currently has actually a mix of property they own, and those that they don't, and a mix of zones. I believe their ultimate desire is that we leave that area outlined in blue out of the overlay this evening and exclude that entire corner.

But I'd like to remind you that as proposed, the new standards would only apply to the R-1 and R-2 zones, so the properties within that area that already have the "U," or university zoning district, wouldn't be impacted.

So our suggestion is that we do adjust the boundary just slightly to exclude properties in that area that already have university district zoning. Otherwise, our suggestion is that that corner be included at this time. But we would appreciate your input on that topic.

I believe that wraps up my comments, and we're happy to answer any questions you have. Thank you.
CHAIRMAN STEVENS: Thank you, Cody.

NEIGHBORHOOD ASSOCIATION

CHAIRMAN STEVENS: So we're going to hear from two neighborhood associations tonight. First we'll hear from SENA, and then we'll hear from the South Boise Village.

So is there a representative from SENA?

Okay. Fred, you're up again. And how is ten minutes for you? Will that will work?

FRED FRITCHMAN: We can do better than that.

CHAIRMAN STEVENS: Okay. Yeah, you're doing really well tonight in terms of the timing.

FRED FRITCHMAN: I try.

Good evening again, Commissioners. Fred Fritchman, 1321 Denver Avenue, representing SENA.

Our board has voted to support this overlay zone. This could be a great evening for close-in BSU areas if at last they receive meaningful protection from a type of high occupancy housing that is destroying the fabric of their neighborhood.

SENA has brought this issue to the City's attention numerous times over the past three years. Here is Blueprint Boise's goal for this area of our City. SE-NC 2.4 BSU area neighborhoods reads, quote, "Preserve existing single-family neighborhoods where
possible south of BSU, north of Boise Avenue, south of Beacon Street between Capitol Boulevard and Broadway Avenue," end quote.

This high occupancy development epitomizes the destruction of single-family neighborhoods. Houses in good condition have been demolished by developers to create high occupancy student housing, rather than being purchased and lived in by families.

As developers build high occupancy duplexes throughout this neighborhood, they not only remove affordable single-family homes, but diminish the possibility that owner-residents will want to locate in the area. Who would buy a home to live in, knowing that one of these structures could be built next door?

This is not an issue unique to Boise. Other college towns across the country have taken steps to preserve the character and livability of their neighborhoods which lie close to a university. These steps include restricting the definition of family and reducing the number of unrelated individuals who can occupy a dwelling unit. Both of these remedies have survived court challenges.

This proposed overlay zone is a reasonable remedy that maintains property rights for both owner-residents and developers. In the past few years
duplexes with only three bedrooms per side have been constructed in the BSU area that fit in well with the existing neighborhood. These duplexes clearly pencil out for some developers.

For decades Boise State University students have been a vital part of the southeast neighborhood and will continue to be. They live throughout the area and indeed throughout the City. Vibrant, healthy neighborhoods, though, consist of a diverse mix of residents: families, working people, retirees, young professionals, homeowners, students, and others.

Over 80 residents signed petitions to City Council last year requesting a moratorium on this type of development. These high occupancy housing projects have not been well accepted by neighbors because they fly in the face of the intent of the R-2 zone and what neighbors had every right to expect could be built next door when they bought their homes.

Occupancy of these new projects far exceeds what residents could reasonably expect for a duplex.
Ten residents, ten bedrooms on a 50-foot lot. I live across the street from a triplex built in a commercial zone which has seven bedrooms on a 50-foot lot. Those three units are 21 units per acre, which requires a conditional-use permit.
Although our City does not equate density with occupancy, it's clear to see that number of occupants these so-called duplexes are designed to hold exceeds that for apartments requiring a conditional-use permit in the R-3 zone.

These are not really duplexes, as most of us understand duplexes to be two-family dwellings. They are something else: boardinghouses, mini dorms, or studio apartments that share a kitchen.

They need to be recognized as something different and regulated accordingly. They should be located in an area zoned for higher density where neighbors have an expectation of that intensity of development. It is absolutely imperative to have the protection of this overlay zone in place while long-term solutions to this issue are worked out.

High occupancy developers own other properties in the neighborhood and are acquiring more. They could go out tomorrow and obtain permits to construct more of these projects, and neighbors would be powerless to prevent it. One of their projects is under construction right now on Manitou Avenue shown on your screen.

Does the scale of this look compatible to you with the house next door, which is typical of the
neighborhood? SENA respectfully asks that you approve this overlay zone tonight as an important step to stop this form of development and give BSU's neighborhoods an opportunity to flourish.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Fritchman.

We'll next hear from the South Boise Village, if there's a representative here of that organization.

UNIDENTIFIED SPEAKER: I'm not actually representing the neighborhood association, but I live there.

CHAIRMAN STEVENS: No, I'm sorry. That's not what this part is about. You can -- if I'm not mistaken, this is the time that's reserved for an --

UNIDENTIFIED SPEAKER: Well, we don't have -- we don't have a representative from our neighborhood association. I am on the board, but I'm not -- I'm not representing them because we didn't take a vote on this.

CHAIRMAN STEVENS: Okay.

UNIDENTIFIED SPEAKER: And so I'm speaking as a person --

CHAIRMAN STEVENS: So you'll get your three minutes --
UNIDENTIFIED SPEAKER: Three minutes.

CHAIRMAN STEVENS: -- when you get your three
minutes, but this is not that time.

UNIDENTIFIED SPEAKER: Okay.


That's correct, isn't it, Staff? Okay.

Great. Thank you.

Okay. So there's nobody from that
organization.

So this is the time we'll have questions
for staff or the Applicant -- or staff is the
Applicant -- or the neighborhood association.

COMMISSIONER GILLESPIE: Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Hi, Cody.

So I'm looking at our -- the proposed
language of the amendment. It basically adds a
conditional-use permit requirement and criteria, and
therefore expands the City's set of tools we can apply
to any permit.

What -- right now what is the permit status
and what is our discretion with respect to duplexes?
So in other words, what happens if this -- if we don't
pass this?

CODY RIDDLE: Madam Chair,
Commissioner Gillespie, as it is today, duplexes are reviewed administratively, fairly black and white set of standards. We evaluate each proposal. That's reviewed two weeks by the staff, and then we issue a notice -- a notice of approval, and it's subject to an appeal.

COMMISSIONER GILLESPIE: Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

CODY RIDDLE: And that wouldn't change if this isn't adopted.

COMMISSIONER GILLESPIE: Right. So this just sits on top of that process.

So another question is -- and maybe I just missed this in the code or have been sleeping up here for years, but would this prevent someone from building a single-family home with ten bedrooms? This doesn't really address that phenomena, right, or a triplex? I was just interested in why we picked duplex as the focus of this overlay.

CODY RIDDLE: Madam Chair, Commissioner Gillespie, it doesn't speak to single-family homes at all. Duplexes have always been sort of an administrative -- we've looked -- the City has looked at duplexes as a -- based on those fairly objective standards, a compatible form of infill in
most neighborhoods. You get beyond that into
triplexes, fourplexes, and you're going to be looking
at a conditional-use permit requirement anyway.

Really what we're talking about here, the
intent of the duplex provision, it just didn't
anticipate these, you know, four- or five-bedroom,
four- or five-bath units in locations like this.

COMMISSIONER GILLESPIE: Madam Chairman.
CHAIRMAN STEVENS: Commissioner Gillespie.
COMMISSIONER GILLESPIE: But just to be clear,
this proposed amendment or overlay wouldn't stop
someone from building a single-plex with a bunch of
bedrooms?

CODY RIDDLE: Madam Chair,
Commissioner Gillespie, that's correct.

COMMISSIONER GILLESPIE: Okay. Thank you.
CHAIRMAN STEVENS: Other questions for staff?
COMMISSIONER STEAD: Madam Chair.
CHAIRMAN STEVENS: Commissioner Stead.
COMMISSIONER STEAD: This is a question for
staff.

So looking at this photo here, it looks
like there's maybe a -- they're not adhering to the
side setback, perhaps. And I wonder -- you know, we've
heard a lot about the characteristic -- character of
the neighborhood. And I know you mentioned this briefly, but it seems like perhaps some of these issues -- and maybe otherwise I'm missing it, and I'd love to hear more. Perhaps some of these issues could be solved in the design side, the design approval side, to make sure that -- and I know we saw a picture of a -- you know, a duplex that did fit the character.

Was that a -- you know, was that a high capacity duplex and was -- or was that not an okay one? I'd just like to know, I guess, like really what is -- is it a design issue? Is it further than that? What are we trying to solve exactly?

CODY RIDDLE: Madam Chair, Commissioner Stead, this picture here, I believe, is one of just a couple that have been constructed under our most recent update to the duplex standards. And a lot of it is -- a lot of it is design. And I think you can see here that they've come a long, long ways in terms of design, not only just the front facade, but we now have pretty clear requirements for curb, gutter, and sidewalk, some of the issues in the past where, you know, unimproved right-of-way with gravel where people were -- especially when you had the higher occupancy units, people were scrambling to find parking, and they were, you know, nosing in on the gravel in front of these
homes.

You know, some of those -- some of those challenges remain. But I believe -- I'd really let the residents that are going to speak tonight talk about the concerns. I think it really is those, you know -- I believe this one. And I toured it myself. I believe it was four bedroom by four bath on each side, but there are others that are five bedroom, five bath.

So that may be, you know, somewhat beyond what neighbors reasonably anticipated with a duplex.

CHAIRMAN STEVENS: Thank you.

Commissioner Bratnober.

COMMISSIONER BRATNOBER: So a couple of questions. I'm trying to understand the objective here as well, because it seems like there are a number of holes to squirt through.

One of my questions would be, you mentioned some regulations that were in place that affected floor area and open spaces.

Now, why aren't those sufficient -- because what we are talking about is new construction. Demolition possibly, but new construction. So do I gather that those are not sufficient, even though those are already written into the code?

CODY RIDDLE: Madam Chair,
Commissioner Bratnober, certainly those made a big difference.

I mean the other thing, just with, you know, five -- the higher occupancy units, there's an additional demand on infrastructure: you know, the trash enclosure, parking, things like that. It may be that we just didn't go far enough with that last update. But to be fair, there haven't been but just a couple constructed since that occurred.

Again, this, as an alternative to a request for an emergency ordinance or even a moratorium, City Council really looked at this in directing us as kind of a step in the right direction of compromise.

COMMISSIONER BRATNOBER: Okay. Thank you.

Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So another question is, how was that particular border of the area where you're carving out this overlay, how was that selected?

CODY RIDDLE: Madam Chair,

Commissioner Bratnober, you know, we looked at where we've seen some of the duplexes proposed, zoning in the area, and also where we've seen some of the higher occupancy -- some of the, oh, single-family on narrower lots proposed, and captured all of that.
You know, certainly I don't think it's fair to say that this is the perfect boundary or final boundary. We did have a request from the South Boise Village Neighborhood Association to look at the area further south. Originally the focus was really on the triangle here: Beacon, Boise, Broadway. But I think you'll hear from residents this evening with similar concerns from this larger geography.

COMMISSIONER BRATNOBER: Okay. Because I'm trying to separate out, where is the issue? We have students in these houses, and students bring with them their own charm. And then we have an issue with duplexes. And so do those houses -- house sizes and shapes fit the neighborhood?

So I'm trying to figure out, is it both? Is it one? Is it both? And I'm not sure who I should be addressing this question to or if it's unanswerable. I'll start with you, Cody.

CODY RIDDLE: Madam Chair,
Commissioner Bratnober, I think that's tough to answer. Some of it's design, some of it, I think you'll hear in testimony tonight, there's a concern that the neighborhood would transition to -- with this type of product would transition to almost exclusively student housing.
That's not necessarily our stance from a City perspective, but I think that is some of the concern that you'll hear this evening.

COMMISSIONER BRATNOBER: Okay. And like it or not, that typically happens around universities. I mean it just -- it goes with literally the territory.

So another question -- I'm sorry.

Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So -- sorry. I'm running through a couple over here.

CHAIRMAN STEVENS: It's okay. You're fine.

COMMISSIONER BRATNOBER: There's an overlay task force, as I understand, being headed up by Councilwomen Clegg and Sanchez, yet we're doing this.

Why wouldn't we wait and let them think through how overlay should work in this area? Because I know this is one that is clearly on their radar.

CODY RIDDLE: Yeah. Madam Chair, Commissioner Bratnober, that's a fair question.

And it was actually -- we're bringing this to you at their direction, ahead of the effort of that working group. So they're well aware that we have this before you this evening. And they looked at this as a compromise or as an alternative to the requested
moratorium. It may be that we revisit this and change some of the standards altogether. That working group has met once. We're slated to meet again next week.

COMMISSIONER BRATNOBER: Okay.

CHAIRMAN STEVENS: Other questions?

COMMISSIONER BRATNOBER: If other folks want to go, I want to look at my list here for a second.

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: Madam Chair.

Thanks, Cody.

Has there been -- just thinking through, is it may be not so much the number of dwelling units, but has there been a discussion about limiting total square footage within the structure?

CODY RIDDLE: Madam Chair, Commissioner Schafer, we actually do that. The code does that now. There's a floor-area ratio limit --

COMMISSIONER SCHAFER: Okay.

CODY RIDDLE: -- that, again, hasn't been in place long enough really effectively test. We've only had a couple of them constructed under that. And I believe that's the photo we saw there. So that's certainly something we've looked at and implemented.

COMMISSIONER SCHAFER: Okay.

COMMISSIONER GILLESPIE: Madam Chairman.
CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So I just want to try and refocus this discussion on what this really does. So condition -- or your suggestion No. 1 or point 1 is simply apply the CUP criteria to these duplexes that are over three bedrooms that would clarify what a bedroom is, and in your opinion that would give the City a greater ability to mitigate adverse impact; is that basically -- you want that part of the CUP criteria in there; is that the objective?

CODY RIDDLE: Madam Chair, Commissioner Gillespie, I think that's a good way to summarize it, yes.

COMMISSIONER GILLESPIE: Right. So as part of the adverse impact, we could look at building mass. We could look at anything basically related to the project within the CUP approval guidelines. And, you know, as we've just heard from the previous application, they could -- they're reasonably broad. So I take it that's the goal of point 1.

CODY RIDDLE: Correct.

COMMISSIONER GILLESPIE: So and then point 2, which is more cut and dry, it basically just says duplexes on substandard lots are prohibited. And duplexes on small corner lots are just prohibited.
CODY RIDDLE: Correct.

COMMISSIONER GILLESPIE: What's the point of that one when you already have the CUP criteria in point 1? Like why? Because that is a fairly sharp -- you know, like a small, two studios would be prohibited; right? A duplex consisting of say 2,000 -- 3,000 square feet would be prohibited by that part of the ordinance. Why that?

CODY RIDDLE: Yeah. Madam Chair, Commissioner Gillespie, certainly the substandard lots present their own set of -- you know, set of challenges.

COMMISSIONER GILLESPIE: Yeah.

CODY RIDDLE: They're already narrower in width, less area. And so it really is an attempt to just look at the bulk and mass of those buildings on those smaller lots. Certainly it's at the Commission's discretion to forward that to Council omitting one or any of these provisions.

COMMISSIONER GILLESPIE: Right, right, right. Right. Because --

Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Because in your CUP deliberation, one of the things you could consider is
the substandard-ishness of the lot in making a
determination of is it too big, is it too small, is it
substandard.

CODY RIDDLE: Certainly.

COMMISSIONER GILLESPIE: So I'm just a little
bit confused by it.

Okay. And then, Madam Chairman, on the
third point.

So again, this is just a straight ban on
off-site parking flat, period.

How does that straight ban compare to the
current code?

CODY RIDDLE: That's correct. Madam Chair,
Commissioner Gillespie, right now the code in a lot of
the zones allows off-site parking lots through
conditional-use permit. It would still allow someone
to request that in the -- all the higher density
residential zones, commercial zones.

The intent there is that we don't want to
see single-family homes being demolished or removed for
the simple construction of parking lot to accommodate
the university. I believe the Commission may have seen
one of those recently. And that's certainly these
parking lots can have a huge impact on the character of
those neighborhoods.
COMMISSIONER GILLESPIE: Right. Thank you. I agree. Thank you.

CHAIRMAN STEVENS: I have a question for Mr. Fritchman, if I could.

So in discussing this with your neighbors and the members of your association, I guess I'm interested in knowing what -- and this is -- it's related, but it's not specific to this overlay. What's missing from what we passed, you know, not very long ago? And what problem are we trying to solve? And I guess this gets to some of my fellow Commissioners' questions about the objective. What do you think is missing from the existing ordinance? And what does this overlay solve?

FRED FRITCHMAN: I think the -- I think the goal, as far as the neighborhood association, went with the original request for the emergency ordinance and the changes to the standards was to affect the design so that these structures are more compatible with existing homes. I think you can see from the photograph that I put up that this is a project that's being built under the current ordinance. It is not compatible with the scale. And I'm recalling that the Commission -- and I believe it was you, Commissioner Stevens, who
said, "I want this revisited in six months to a year to see how this is working."

This is how it's working and not working. The photo that Cody showed of the duplex looks pretty attractive from the front. That is a five-bedroom duplex. So limiting the floor area did not really affect the --

CHAIRMAN STEVENS: So can I stop you for a second, though? Because a second ago you said it's a design issue. And then you just said the design looks nice, but it's a five-bedroom duplex. So that's what I'm trying to get at. And I'm sorry to interrupt you, but I really am trying to get at the heart of what the neighborhood is trying to do and what's, in their mind, the problem. So sorry to interrupt you, but I wanted to throw that in.

FRED FRITCHMAN: That's okay.

So superficially, I mean there's more -- there are more interesting design features certainly on that duplex that Cody showed than we'd seen in the past and more articulation, but I think you can also see that from the photo that I brought that the massing and the scale of the development is not compatible with a neighborhood that consists of single-family cottages, smaller duplexes, housing like that.
And I guess we -- the Board fundamentally feels that this type of a product, the scale and intensity of this use, is not consistent with the function of the R-2 zone that is most of this overlay zone. Most of this overlay is either R-2 or R-1 zoning. But a product like this really belongs in an area where neighbors would expect to see that many bedrooms.

CHAIRMAN STEVENS: Okay. Thank you.

I have a question also, then, for staff. Moratoriums are inherently temporary. And so I guess, has the City ever approached something along this line, like an overlay from a temporary perspective, something that we could take this that's -- it's not a moratorium, it doesn't, you know, stop development, but it does put some brakes on, in the sense that it provides some guidance that will allow some of these other efforts that are ongoing right now to proceed? Is that within our purview to sunset something?

CODY RIDDLE: Madam Chair, and actually the last time we changed the duplex standards was an emergency ordinance where we had six months to update the code permanently. Six -- and I guess Council -- and Council did discuss that in this situation and felt that, you
know, this would provide them more than the six months to adopt some, you know, more wholesale changes for the area, that the work involved here was going to take more than the six months code allows for an emergency ordinance.

CHAIRMAN STEVENS: Okay. So that sort of in a roundabout way discussed my question, but didn't necessarily answer it, which is, can we, as a Commission, put a sunset on a recommendation for a zoning change?

CODY RIDDLE: Madam Chair, that could certainly be your recommendation to City Council, yes.

CHAIRMAN STEVENS: Okay. Other questions for staff?

COMMISSIONER BRATNOBER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So I'm still a little bit confused, and maybe this question is for you, sir. The issues that you're concerned with only extend to duplexes, as opposed to, for instance, single-family houses with a bunch of bedrooms; is that correct?

FRED FRITCHMAN: Actually, personally, and not speaking for the association, I think my concerns extend to that as well. We have had products, in fact
two of them are under construction right now, that are four-bedroom, skinny houses on 25-foot lots. And we have two sets of those that have been approved.

And I'm recalling that in seeing this last letter to City Council calling for a moratorium we asked for that, but at the -- actually, this came up at an appeal hearing for one of these duplexes. The concern from some Councilmembers was that trying -- it's difficult to regulate single-family homes on substandard lots.

And they could see all sorts of situations in the North End where there are lots that are substandard but actually have plenty of room that would be unfairly and unrealistically regulating the number of bedrooms in those homes. So it wound up getting applied to duplexes. And duplexes have been the majority of the problem with this high occupancy development in this area.

COMMISSIONER BRATNOBER: And that problem is?

FRED FRITCHMAN: Incompatible with the existing neighborhood, does not adhere to the Blueprint Boise's goal of preserving single-family housing in this area.

COMMISSIONER BRATNOBER: Okay. Thank you.

CHAIRMAN STEVENS: Other questions for staff or neighborhood association?
PUBLIC TESTIMONY

CHAIRMAN STEVENS: Okay. We'll go ahead and go to the sign-up sheet. The first person on -- and I'm going to ask you guys to sort of queue up, because it's late and I think we probably all would love to go home, but not before we're done with this.

So the first person is Reuben, followed by Linda Paul, and then Ariel McCluskie. I think it's Lehmann, but I could be wrong about that.

REUBEN LEHMENN: Yes.

Chairman and Council, good evening.

CHAIRMAN STEVENS: Can you start with your name and address, please.

REUBEN LEHMENN: Yes. My name is Reuben Lehmann. My address is 1906 Potter Drive.

UNIDENTIFIED SPEAKER: Speak loud.

REUBEN LEHMENN: Yes. Before I get started, I'll be short with mine, since the time is running out here. I have several concerns.

Well, first of all, I handed out and I gave everybody a copy of this, my questions and my concerns.

Did you all receive yours, Commissioners?

CHAIRMAN STEVENS: It was in our packet, I believe, I think. I can't see what you're holding up, so it's hard for me to know. That doesn't help.

Sorry. Hold on. Hang on just a second.

REUBEN LEHMENN: While I was here I --

CODY RIDDLE: Madam Chair --

CHAIRMAN STEVENS: We can't accept things from the podium right now.

CODY RIDDLE: Madam Chair, if I may, we received numerous copies of that, but they were actually addressed or related to the proposed BSU Master Plan that you've yet to see. So they weren't included in your record --

CHAIRMAN STEVENS: Okay.

CODY RIDDLE: -- this evening.

CHAIRMAN STEVENS: Okay. So those were submitted for a different application?

CODY RIDDLE: That was our understanding, yes, correct.

CHAIRMAN STEVENS: Okay.

REUBEN LEHMENN: Well, on the 8th I came to the office down on Planning and Zoning and handed them -- and put your names on it.

CHAIRMAN STEVENS: Okay. But it sounds to me, sir, like it was done for the Boise State Master Plan application, not for this application. And there is obviously a lot of overlap. We're talking about the same neighborhood.
REUBEN LEHMENN: Well --

CHAIRMAN STEVENS: But it sounds like we'll be receiving them when we hear that application next month.

REUBEN LEHMENN: Well, that's one of the concerns I have, because of the nature of how it was laid out. In this here concerns of mine on the first page, I show that the property that my family owns, I'm the administrate -- I'm the executive of my family's estate. And the property on 1810/1812 Yale is not included on that map. It's shaded and appears to be on the BSU campus. And that's a concern of mine. Bringing that to the public is a possible problem for our family.

The other question is regarding jurisdiction. When jurisdiction is questioned, it's to be verified by constitutional law and also Supreme Court rulings, which I made a list in this pamphlet of mine.

I -- over the course of seven years since 2013, I issued about seven to eight affidavits concerning my issues with regard to the planning of the university and haven't received one rebuttal, which is a concern of mine. It appears that due process isn't -- doesn't seem to be concerned about the
university's plan.

    I would highly recommend that Planning and
Zoning here reconsider this thing until these -- this
plan shows the evidence correctly and not give false
information to the public here with regard to my
property's -- my family's property.

    And I appreciate your concerns and I hope
that you'll consider due process and --

    THE CLERK: Time.

    REUBEN LEHMENN: -- make a --

    CHAIRMAN STEVENS: Sir, your time is up. But I
just want to make sure you know, we are not considering
the Boise State Master Plan tonight. This is an
overlay. And by your property not being in that
overlay does not make it part of Boise State's campus.
It simply means that the overlay doesn't apply to your
property.

    REUBEN LEHMENN: Right. Well, that's -- there's
a -- there's a false information on that plan. That's
my concern.

    CHAIRMAN STEVENS: Okay. All right. Thank you
very much.

    Next up is Linda Paul, followed by Ariel
McLuskie.

    LINDA PAUL: Chair Stevens and Members of the
Commission, my name's Linda Paul. 1715 South Grant Avenue.

My comments are in collaboration with a neighbor, Pat Durland, who is out of town this weekend. Mr. Durland lives at 1951 South Manitou Avenue, 83706. And I'm actually not sure that I should be even bringing up the issues that I was planning to discuss this evening. I -- we very much are in favor of this overlay district and getting a handle on the duplexes in the neighborhood. And we fully support SENA's recommendations.

I can't actually speak for the entire neighborhood association, because we haven't had a chance to vote on this. So I'm just speaking for the neighbors that I've spoken with. Our issue has been actually with fraternity and sorority houses in the neighborhood that pop up like pimples.

We feel that this might be a really great opportunity for the university to recognize another critical segment of student housing, student campus housing. Boise State recognizes numerous Greek organizations, but they do not seem to want to put housing for those organizations in their plan. They have -- if they would consolidate their approach to Greek housing results in these organizations -- I've
lost my train of thought.

But anyway, what happens is the fraternities and sororities go ahead and purchase or rent a large house within the neighborhoods, and then the students move in there. And they -- this is a disaster for the residents and the students both, because they're not compatible.

So we would like to see the university take this opportunity to develop some on-campus housing for their sororities and fraternities. And that doesn't necessarily --

THE CLERK: Time.

LINDA PAUL: -- apply to what's in front of you tonight. But we hope that we can work toward that.

CHAIRMAN STEVENS: Great. Thank you so much.

LINDA PAUL: And I have the written testimony that I didn't get submitted to you.

Should I --

CHAIRMAN STEVENS: I'm sorry. We can't actually take that on the night of. It doesn't give us the chance to review it.

So Ariel McLuskie followed by John Hale.

ARIEL McLUSKIE: Good evening. I'm Ariel McLuskie, and I reside at 1919 Verna Lane.

Southeast residents have been forced for
decades to accept an expanded U-zone, a tax-exempt
occupier of over 175 acres and private developers, both
successfully finagling to secure their profitable, high
density projects. Students have furthered the demise
by parking their cars over front yards and across
sidewalks.

On February 3rd of 2020, Commissioners will
see BSU's draft for a memorandum of understanding for
public roadway changes. Like the North and East Ends,
we rely on a configuration of arterials to carry motor
traffic around our urban surface streets.

To ward off an erosion of livability,
residents need the existing University Drive arterial
where Boise State has nonchalantly removed a church.
The East End's precedent of a sky bridge at St. Luke's
needs to be applied to Boise State's profitable bed
projects, not a reallocation of public roads.

We invite President Tromp to acknowledge
our neighborhood and the November 2019 City election by
standing up and nixing a Boise State baseball stadium
on Beacon Road. Please lead BSU to partner with the
existing Memorial Baseball Stadium.

The constant message residents have given
is that we don't want our neighborhoods to be eroded,
yet BSU recently purchased 1801 Yale Court. And they
have requested to rezone to build more high density buildings that would loom over and abut private homes. Our southeast Boise is as valuable as North and East Boise neighborhoods, and it's time to earnestly uphold current ethics and codes and to secure an overlay district.

And as you ask what my goals are as to why I would be so interested, it's because my family and I have lived in the same house in Boise State's desired near-expansion zone off of Juanita for 40 years, nearly 40 years.

It's just amazing that when universities of the 21st Century are going to be more digital that Boise State thinks that they have to continually have more property. They have 175 acres or more. They have satellite properties. We need to continue to have a City that has mixed uses for all residents so close to the river and downtown. Boise State shouldn't be allowed to just do a land grab because they want it.

Thank you.

CHAIRMAN STEVENS: Thank you.

John Hale followed by Ed McLuskie.

JOHN HALE: Thank you, Commissioners.

I'm going to load a -- John Hale,

1805 North 10th in Boise. We've been here so long,
I've forgotten which side I'm on, but I'm going to try and remember.

I oppose the proposal tonight for the following reasons: The stated risks are vague and unsupported and don't rise to additional regulation. In 2017 the City wrestled with this and came up with new guidelines that effectively killed this project. Only two have been built since the new ordinance went into effect. They were planned in '17, approved in '18. None have been approved in '19. And I don't think there are any applications. We certainly don't have any in.

The -- the proposal to you lacks statistics. It has a lot of feeling, but it doesn't talk about what stats back up the nuisance that is perceived about these buildings. So I gathered some stats. I went to the MLS and pulled all the homes sold in the proposed overlay in the last 140 -- or I'm sorry, the last 24 months. 148 homes have sold. You can see the stats there. I won't read them to you.

But the neighborhood in the overlay has remained unchanged. It's the same composition of owner-occupied versus rental, and there's been no change in the character. You can see that the stats add up to 100 percent.
The duplexes, the stats don't support that they drive families away. Five years ago the first one went up. There were 11 built on seven blocks. Since those duplexes were built, eight homes have been sold. Less than the number of duplexes that were built. Three were owner occupied and sold to other families, five were rentals that stayed rentals.

The duplexes are not demolishing historical homes. I know so much about this because I built 10 of the 11 that have been the subject of tonight's discussion. We demolished eight homes. And of those, one had a disconnected sewer. The Orangeburg had collapsed and the tenants had cut the drain lines, and it was dumping straight into the crawlspace. One of the homes had been condemned before we bought it. One of the homes was on slab. Three were on cinderblock. These aren't great places that we've taken down.

Finally, the proposal is unwarranted. And the reason I say that is because there was a -- there was no process that brought this to you today. That sort of the -- there were neighborhood concerns, and then they showed up, and then a task force was impaneled to study the situation. That seems backwards.

I would suggest that what we need to do is
put this back to the task force, ask them to gather
data, size the problem, determine what the risks are,
and then come up with a proposal for what to do. This
has solved itself. The new ordinance has been very
effective. We built the only two, and we're not
building anymore.

We have one more we would build that's in a
C-zone. We're not building any in R-1 and R-2. And in
fact, we have offered to the City and to SENA, to back
that up, by entering into a three-year MOU where we say
we won't propose anything on R-1 and R-2 until we get
this figured out.

So I encourage you to think about process,
think about transparency, include the people on here
that haven't been included.

THE CLERK: Time.

JOHN HALE: Send this to the task force.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Hale.

Ed McLuskie, followed by Will Kemper, who
may have left, followed by Hethe Clark.

ED McLUSKIE: Hi, Commissioners. I'm Ed
McLuskie. I reside at 1919 Verna Lane.

I support planning staff's overlay plan
with the proviso that the map not be further restricted
so that the work group can get on with the substance of the overlay district. I serve on the planning work group. I'll address the BSU piece.

BSU's objection, while you were being asked soon to approve an amended BSU expansion into our neighborhood, is already showing us the problem. We did not collaborate when a U-zone was created for the Honors College, nor have we collaborated as a neighborhood for the area just west of it.

So much depends on accurate accounts of BSU neighborhood history and what collaboration means when you read BSU's letter. Speaking as a campus professor on communication, communication style and frequent conversations are inadequate when communication confronts the exercise of power. Power distributions set directions and substance of communication.

The BSU letter asserts power by claiming an exclusive exception to overlay zones. That attempt to exercise power can be met with P&Z's exercise of its Constitutional right to zone. BSU instead deflects SENA and neighbors into a vague future all too familiar to residents, a typical exercise of privileged power.

Yes, hard boundaries do restrict. That's the point of an overlay. We've been waiting for that for years instead of constantly wondering what BSU and
other developers will do.

As to how BSU worked for predictability, that always meant predictability more so for BSU than for neighborhood residents. The letter mentions conversations that we had and that are to be had, but many never happened. Those that did made clear the only question was timing and money, pre and post 2015.

Since 2015 we've heard, "Don't worry. We won't get your neighborhood -- to your neighborhood until we can afford it."

Communication with neighbors has not been as clean and as transparent as the BSU letter suggests for multiple durations mentioned. Note that BSU once proposed and then withdrew a spot-zoning request, and BSU did it again in 2019. Spinning both as though evidence of collaboration.

University towns have produced ordinances to restrict and reverse both private and university expansions into neighborhoods. The future of our city depends on a vital neighborhood around the university, not one just controlled by the development of the university.

Thank you.

CHAIRMAN STEVENS: Thank you, Dr. McLuskie.

Will Kemper I think is gone.
So, Mr. Clark, you're up.

HETHE CLARK: Members of the Commission, Hethe Clark, 251 East Front Street in Boise. I represent Katrina Holdings, the principals of which are Mike DeVotorio [phonetic] and John Hale, who you just heard from.

They've been a part of this conversation for quite a long time. I think John provided you some of the practical and market perspective that we have on this. And I was asked to look at it from a legal perspective.

As discussed, the duplex ordinance was updated just a couple years ago. A number of restrictions were added, including site size, floor-area ratio, setbacks, open space, landscape design, driveway restrictions, right-of-way improvements, and also included design review. Quote, "The design standard" -- or excuse me, "The design standards require that design be," quote, "'compatible with the existing neighborhood and adjoining properties by taking into account height, bulk, and site location.'"

As John testified, that has made duplex development of this type of product far more difficult. It's limited the number of projects since the time of
the ordinance. As he mentioned, there's only been two of this type: in 2018, none in 2019. In other words, the process has been working. It gave developers in the neighborhood a clear signal of what would be required for an approval.

Now, rather than relying on the objective standards, we're instead going to make this a conditional-use process whenever there are more than three bedrooms. You all know that a conditional use is a use that should be approved, so long as appropriate conditions can be placed upon it. Those conditions are intended to address the impacts on neighboring properties.

As we've discussed, the City has already identified an extensive list of conditions, which begs the question, what else could be added beyond those conditions that are already in code? What we seem to be doing with this ordinance is throwing out specific standards in favor of what will likely be a much more subjective process.

There is a process in place with the working group that staff has already discussed. Shouldn't we rely on that process, discuss the impacts that need to be addressed when more than three bedrooms are proposed, and then identify objective standards,
rather than put -- just punting and turning this into a conditional-use process?

I think what you heard from Mr. Fritchman was that anything above three bedrooms would be prohibited, in SENA's view. This ordinance is really, I think, a fig leaf for that desire, and it begs the condition of why have a conditional-use process in the first place if that's what we're trying to prohibit instead.

In terms of the remaining language, I think the Commission should consider a few other questions. First, this needs a definition of "bedroom" or "sleeping quarters," to Commissioner Gillespie's point. I don't see a definition of those items, and think that raises questions.

Second, the City could be drawn into the unenviable task of counting bedrooms in existing duplexes, which would now be nonconforming structures, whenever they include more than three bedrooms.

Is that something that the City wants to be involved in and enforcing? And that lack of definition of a bedroom makes that even more troubling. And as Commissioner Gillespie pointed out, what's the basis for carving --

THE CLERK: Time.
HETHE CLARK: -- that distinction between
duplexes with more than three bedrooms and
single-family residences?

CHAIRMAN STEVENS: Thank you, Mr. Clark.

HETHE CLARK: Thank you.

CHAIRMAN STEVENS: Okay. That's it for the
sign-up sheet. There are a lot more people here that
aren't on the sign-up sheet that I assume might want to
talk. So if you wouldn't mind please coming forward --
you've heard me say this already a couple times
tonight -- sitting in a line so that I don't have to
call you from the back of the room. And then when you
do get done, please fill out a white slip of paper,
which is right there on the desk next to you, and
either hand it over to staff or you can just leave them
on a pile there.

So go ahead.

DEE PATERNOSTER: Hi. I recognize all of you.

CHAIRMAN STEVENS: And start with your name and
address, please.

DEE PATERNOSTER: I am Dee Paternoster,
1315 Michigan Avenue.

I have lived there for 51 years. When we
bought the property, it wasn't the same; right? And I
am definitely in favor of this overlay being passed,
mainly because I have ten girls right behind me on Lincoln that was just built a year ago. I also have
next to me with Katrina on Lincoln two great, big buildings that house 16 boys. Okay?

During -- during the last few years since Katrina bought that property, there's been parties of 2- to 300, 400,000 that come -- I mean 400 people that come to these parties unsupervised. We don't have enough police force to do this. We don't have enough parking. I know all of the ones that are in parking. I know all the policemen. I've had to deal with them because we've had a lot of vandalism done to our property because I speak up.

It's not easy to speak up. But I want you to understand this is my home. I wanted it to be a family home. I've lived there 51 years. I raised seven children. I had five children that were Boise State grads. I have a granddaughter that's going there now. And I have one great grandchild, and hopefully they'll all go. But we need our home. We need our space. We need our protection.

How do you feel when at 10:30 at night somebody decides to throw something at your house and puncture it? How do you feel when your fence is knocked down? How do you feel when eggs are thrown in
your yard? These are -- these are the Greeks that are doing this.

And the police cannot control them. They cannot control. The codes are not being kept, the City codes. I know what the City codes are. They are not being taken care of.

Thank you.

CHAIRMAN STEVENS: Thank you so much. Please fill out a white slip of paper. Yep. Otherwise, you're not going to be on the record. So thank you.

Next.

ALLEN HUMBLE: I'm Allen Humble. 1373 West Martin Street.

I've seen probably all of the structures pictured tonight. And the first one is the best in terms of its style and color and compatibility with the neighbors. There are some that must have used remnant paint and an architectural style from another planetary system, because they wildly vary. You can do better than that as you go ahead.

You know, the biggest problem is what you get when you build them. And this lady's outlined it. I mean the structures are not necessarily problematic for me as much as they are for others. It's the occupants that are the real wildcard. And like most
capital projects, you absorb the cost in the ensuing 30 years. It's not the capital project. It's what you spend in the next 30 years in terms of costs: marginal, psychological, and real costs.

And I've had problems with the police not being able to control fireworks discharges from rental homes that were already rental homes. They weren't new duplexes. I've had snow shoveling unenforced by the City in front of rental homes, including some of the newer duplexes, where you think seven or eight residents could have shoveled 4 inches of snow.

They've overparked and driven on parts of my property. Again, not necessarily duplex occupants, but again, rental occupants. The Greeks are a problem. Rental properties, in general, are a much bigger problem. And I don't know whether they're students or not. But once you've approved any of these multi units, you've laid open the opportunity for 30 years or 20 years until it's subsequently demolished or the university occupies it for some other reason. You've given that opportunity of fertile ground to exist and create all kinds of problems for homeowners there. I'm not sure any other area of the city experiences this.

Rental properties are not the same. If you're a renter and you're a good occupant in many
other places in the city, you can rent a place for 8 or 10 or 12 or 15 or 20 years, and no one would know that you weren't but a homeowner. You may live next to some of them. I have in the past in other cities.

That's not true. In Boise's south, you know, facing -- or southern district where you house students, they're coming and going all the time. They don't -- they don't develop a community attitude, they're not necessarily cooperative or understanding, and they're not probably going to be around for much longer than the two to three years.

As you know, many of them don't complete their undergraduate studies, so they're actually rotating at a much faster rate. These are all troubling circumstances. And the housing stock that's built, that's rented, contributes to this ongoing, unrelenting assault on really the well-being of occupants down there, apart from the style and number of bedrooms.

Thank you.

CHAIRMAN STEVENS: Thank you. Don't forget a white sheet.

EMILY FRITCHMAN: Good evening, Chair Stevens, Commissioners. Thank for your time. My name is Emily Fritchman. And I rent a home at 1313 South Denver
Avenue in the original South Boise triangle.

I am a graduate student in the Master's of Applied Historical Research program at Boise State, and I also teach introductory history classes at the university. I'm also a former Greek. Sorry, we're not all bad. I promise. I currently rent in South Boise with my former college roommate. But I was also born and raised in the same neighborhood of which I rent now.

Growing up, I appreciated the walkability, safety, and diversity of our urban neighborhood. Filled with older homes and mature trees, I could not have asked for a better neighborhood in which to grow up.

Attending BSU brought with it the opportunity to move out of my parents' house and into my own place. Though I have the means to move to the North End or East End, I was drawn to the affordability, accessibility, and character of South Boise that I appreciated in my youth.

I went caroling recently with fellow graduate students, and was surprised by the number of families, older couples, single college professors, and graduate students that lived in this very neighborhood. High occupancy developments threaten our livability.
Developers accuse SENA of not being, quote, "inclusive," unquote, to BSU's students. However, I and student friends of mine are proof that this is absolutely untrue. We all rent affordable, single-family homes in the original South Boise triangle.

Students are valuable to our neighborhood. I've enjoyed many a football game and house parties in original South Boise during my time. However, continued construction of the aforementioned developments threaten the livability of our pool of neighbors. They violate existing code; provide little parking, as you've seen; they don't fit in with the historic character of the neighborhood; and are generally unaffordable for the population they claim to serve, the students, like myself.

We've seen these problems emerge with other places around campus, such as River Edge and the Vista and Identity apartments. Original South Boise is a diverse pool for a lot of different people, homeowners and renters alike.

Those who are looking for affordable housing near downtown look no further than original South Boise. Creation of this overlay district allows for the preservation and continued growth of this
neighborhood.

    Thank you.

    CHAIRMAN STEVENS: Thank you. Don't forget the white sheet.

Next.

PAUL DeCOURSEY-CLARK: Hello. My name is Paul DeCoursey-Clark. I live at 1423 South Manitou.

    I'm not really going to say anything that all my neighbors haven't said and aren't going to continue to say, but I did want to add my voice just to say that, you know, we're all here because we moved to this neighborhood, in some cases were born in this neighborhood, that is kind of a surprising neighborhood for Boise.

    It's this little area near downtown that has this really vibrant mix of residents. Some of us are homeowners. My wife and I have lived here for about 20 years now. Some are renters, and we've made long-term friends who are renters. Some of them are students. We have made friends with students.

    What we're trying to protect is the balance that we have now. This overlay district, I think, will prevent a tipping point, because once a street is overrun with housing of this type, then it's kind of a -- a -- only one type of resident will live there.
And there are streets that are like this that there are no homeowners there now. It's only short-term rentals. And like I said, it's a nice mixture that we have at the moment.

And I think one other thing that I would just like to emphasize is that this is a relatively small area that we're talking about. And if you talk about one or two houses that are demolished every few months that are replaced by a duplex, it doesn't take that long before most of them, a preponderance, have been demolished. And so the smaller, affordable house has now been replaced by something completely different that will indeed change the character and change the balance of the neighborhood.

Thank you.

CHAIRMAN STEVENS: Thank you.

ERIK BERG: Erik Berg, 1301 South Grant Ave.

Chair Steven [sic] and Members of the Commission, first I'd really like to thank the staff. This has been a long process. There's been three different letters from SENA to ask for a moratorium. There was a work group that met for six months that ended up not really going much of anywhere, but then we kind of came back to it. There's going to be another work group, and this came out of the staff putting
together what the City asked for in terms of helping our neighborhood. And I really appreciate all of the effort they put into it.

Growth and development isn't new to me. In the seven years I've lived there, I've had the Albertsons built up adjacent to me, two skinny houses, and one of these high occupancy duplexes. I've lived next to a pastor, a tow truck driver, tons of students. And I love my neighbors, and I love my neighborhood.

The diversity and complexity in our neighborhood is what makes it such an amazing and vibrant place to live. But the key to all this is making sure that the housing stock is flexible. I bought my house from a trust that had bought it so that their kids could go to school at Boise State, and it had been rented out for about a decade to Boise State students.

When I bought it, and was actually able to afford to, because, you know, it wasn't perfect. But I didn't have to remodel or make any changes substantially or otherwise to be able to live in it in a single-family scenario. The people they bought it from was an older couple who had lived in the neighborhood for decades.

This ability of housing to change and flip
from single family, to owner, to renter, to student is really important in our neighborhood and is what allows it to move through the times, whether it be used for students or used for neighbors -- or sorry, used for homeowners or renters.

The problem right now is is that what is -- these duplexes and high occupancy things being proposed simply cannot be used in a flexible nature like that. These buildings are being rented for between 750 and $500 a bedroom, which would effectively mean that for a single family to try and rent one of these, they would be looking at a rent payment somewhere between 2,500 and $3,500 a month, which nobody could afford for five bedrooms, no yard, one parking space, two -- I mean this isn't something we'd ever seen. And just to prove it, none of these buildings are being rented to a single family at all.

I've done the math myself on my property, because I've been approached by many developers to say, "Would we would like to buy your property, rip down your house, and build one of these." And I'd be $184,000 better off in net value plus an income. But I love my neighborhood, and I understand the economic pressure that's being put on this neighborhood because that's incredibly tempting and that's incredibly hard
not to look at.

One of the homeowners in our neighborhood recently started the application process to do that with their house. And the minute you have the neighbors themselves deciding it's time to get out because there's no other option is the time we know that an overlay district is necessary.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Berg. Don't forget the white sheet.

Anybody else?

KATHY McFADDEN: Hi. My name is Kathy McFadden. I live at 1330 Michigan Avenue. And I've lived there for 35 years.

I've had five generations of my family also as students at Boise State, including myself. I have watched an enormous amount of change in 35 years. I have -- in regard to the picture of the most recent duplex that was built on the corner down the street from me, I've had two sets of friends that lived in the single-family home that was there, perfectly good home, post World War II gloom home. Nice big yard, good place for a single family to live. Mature, healthy trees. All of it scraped, and it will have five bedrooms on one side, five bedrooms on the other. I'm
guessing -- I don't know this for a fact -- maybe an
office at the top, skinny house next to it. But they
don't just come as five beds, five beds. All of those
rooms either has a person who has a girlfriend,
boyfriend, or whatever, so the potential is for ten
people here, ten people there, who knows what on top,
and then five next door, which really equals ten. So
you got ten -- 25 people. And either they all ride
skateboards or they all have cars. There's not
adequate parking.

And yes, living by a university, as I've
done for a long time, comes with a few challenges with
students, but part of the problem, as was referred to
earlier, was the larger complexes seem to be going to
organized groups of students, like sororities and
fraternities, and that can lead to some real serious
problems.

That's really all I have, except that I'm
favor of the overlay district.

Thank you.

CHAIRMAN STEVENS: Thank you.

Anybody else? Oh, I guess there's several
more. Okay.

STEVE MENDIVE: Yes. My name --

CHAIRMAN STEVENS: Go ahead and pull that up.
CHAIRMAN STEVENS: So we can hear you.

STEVE MENDIVE: Okay. Thank you.

My name is Steve Mendive. I live at 1103 Howard street.

And the first thing I would like to say, I guess to Commissioner -- and thank you Chairman and Commissioners -- to Commissioner Bratnober, I live in that lower end section over there, and I am very happy to see that this overlay extends down to that, because Boise State, as you realize, is expanding tremendously, and it's happening there as we speak.

I would also like to say that I have neighbors next door who are Boise State students living in a single-family home. They are good neighbors, and I think possibly because I'm also on very good terms with the landlord and with the neighbors -- I went over and met them when they came in, and the other ones bought a house, who are also Boise State students, that helps.

But that's not what we're talking about in these single-family homes here. This whole overlay is talking about over three bedrooms. And no one is stopping. I heard someone say it sounds like, "Well, we only built two."
Well, no one's stopping duplexes. My understanding is this is for over three bedrooms. And that would require the conditional-use permit. I don't think that is a very burdensome thing, based on all the problems we have seen here.

I live on Howard Street. I do not want to see next to me something like the pictures that someone presented here on the 1200 block of Lincoln and we've heard people talk about their experiences here or what was going up on Manitou and Hale. I do not want to see it. And I could see that happening. My neighbor's talking about it. Someone mentioned it previously already. That is not what we need to see.

Where there's pressure to grow, there's pressure to do it, we need to get this under control before it explodes.

Thank you very much.

CHAIRMAN STEVENS: Thank you.

PAM ROEMER: Good evening. Good evening. I'm Pam Roemer. I live at 201 -- 2001 West Boise Avenue, No. 8. Thank you for your time.

I support the overlay, and I agree with everything my neighbors have said. And so that's going to be it, I'm sure.

CHAIRMAN STEVENS: Thank you.
CHRISTINE GLEASON:  Christine Gleason, 1816 West Potter Drive.

And I also live in this neighborhood and support the overlay for a lot of the reasons given. And we've lived next to students. And it's a great neighborhood. It's vibrant, and we want to keep it healthy. And we think the overlay helps with that process. I think it does.

And it's just nice to have a mix of homeowners and long-term renters, along with shorter-term renters. And so I think that overlay helps in this process of trying to keep this a real healthy neighborhood.

And we've had examples of students who -- you know, they don't have snow shovels. They don't have garbage bags. They don't have just a lot of those basic things. So we've been in a situation where they come to us and get it. So neighbors are bike pumps or starter -- jumper cables. I think having single families and established families just gives the whole neighborhood more stability and good health. So I support the overlay.

CHAIRMAN STEVENS: Thank you. Please don't forget a white sheet.

Okay. This is it. Somebody wanted the
last word.

DREW ALEXANDER: Patiently waiting. My name is Drew Alexander, representing Boise State University. 1910 University Drive, Boise, Idaho 83725.

Boise State has been a willing and active participant in this conversation for the better part of the last three years. If university students are part of the zoning conversation, it probably makes sense to have Boise State involved. And we certainly appreciate all the invitations and work completed by City staff.

I think by now we can agree that we're working on matters that relate to some specific areas of Boise, not citywide. As such, a tool like an overlay may be a practical way to go. However, these are not easy decisions, often having long histories and clear implications.

That being the case, Boise State believes it's important to get this decision right. Hopefully a decision that affords longstanding reassurance to developers, neighbors, and public institutions alike.

The letter sent to the City by Boise State last week includes a few considerations that we feel are important for this decision. First, in November of 2019 Boise State invited the Southeast Boise Neighborhood Association to engage in a planning
process, one that certainly has overlap with this decision. The letter is in your packet.

If that was a disingenuous invitation, as you've heard tonight, I can only ask that you read the letter and decide for yourself. Our ask to the association was simple: Work together to find an agreeable stay for future development in and around campus. We'd ask the City provide some additional time to this overlay process, allowing Boise State, SENA, and the City, possibly through the already formed committee, to take a hard look at the matter and make sure we get the solution, zoning overlay or not, right. This opportunity to work together is an important one, and we hope sincerely to capture it.

Second, the overlay, as currently drawn, includes numerous properties owned by the State of Idaho. These are in and out of the City's defined campus planning boundary, some with university zoning designation.

Boise State is not planning to build duplexes at the moment, but we do occasionally build and operate parking facilities. A zoning overlay can act as a bit of a policy tool chest, and it's likely other policies may be introduced in the future.

As such, we'd ask at a minimum that the
overlay doesn't include these properties or the
properties included in Boise State's active
Comprehensive Plan Amendment and rezoning applications.
There's a lot going on at the moment, if you're picking
up.

These are CPA19-0001 and CAR19-00021.
Boise State is scheduled for February 3rd with the
Planning and Zoning Commission, and we're happy to
provide additional information then, including a
thorough response to some of the comments you've heard
tonight directed toward those requests.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Alexander.
You already filled out the sheet? Mr. Alexander, did
you already fill it out? Okay. Great. Thank you.

Okay. This is it. If anybody else wants
to talk, please come forward to the front.

TERESA DiDIO: My name is Teresa or Tracy DiDio,
and I live at 14 -- excuse me, 4431 North Kitsap Way.
I don't live currently in the zone because of the frat
parties that were at my house at 1409 South Euclid.

They -- I want to -- we just spent from
six o'clock to 8:30 fighting and talking, you guys all
discussed for an hour and a half about parking. And
this -- this -- this is the problem with that area of
town when we put in rooms -- houses that have five
bedrooms on either side and no parking, the street
becomes the parking lot. And that is what happened to
my home at 1409 South Euclid.

And I want to leave you with a thought that
if we allow five-bedroom duplexes on either side, like
the one lady was saying, there will be 20 people in
each one. Each student has 10 cars -- I mean each
student has a car, because they're all from California
and Nevada and -- no, I'm serious. They're all from
California or Nevada. And we will have a neighborhood
of 18 to 22-year-olds. I don't think you want your
police people dealing with 18 to 22-year-olds in that
neighborhood only.

All right. A person's largest investment
is their home. And by not -- not protecting the
investments that these people have purchased, that I
have purchased. I still own the home. My daughter
lives there and is going to Boise State. In fact, I
have another home at 1612 East Reinhart Way in which my
nephew lives, and he's going to Boise State. By not
supporting these people, we are actually injuring their
investment potential in their homes.

The other issue, students, they've been
wonderful. Like the one lady was saying, having
your -- being able to help them with their shovels and
their charging of their vehicles has been very cool,
the ability to help them.

I also want to point out that I sometimes
felt like our neighborhood was forgotten. And I
appreciate the fact that you guys are dealing with it
this evening, that there needs to be some regulation
dealing with the housing situation and the amount of
cars. And I love the vibe that we currently have in
Southeast Boise, and I'd like us to be able to keep
that.

Thank you.

CHAIRMAN STEVENS: Can you please put your name
and address on a sheet. Thank you.

Okay. Anybody else?

Okay. Does staff have anything you want to
add for rebuttal? No. Okay.

REBUTTAL

N/A

CHAIRMAN STEVENS: With that, we'll go ahead and
close the public portion of the hearing.

MOTIONS

CHAIRMAN STEVENS: And how does the Commission
want to proceed? Does anybody want to start?

COMMISSIONER FINFROCK: Madam Chair.
CHAIRMAN STEVENS: Commissioner Finfrock.

COMMISSIONER FINFROCK: I move to approve CAR19-26 and ZOA19-7, along with the terms and conditions as outlined in the staff report.

CHAIRMAN STEVENS: Okay. We have a motion by Commissioner Finfrock.

Is there a second?

COMMISSIONER GILLESPIE: Second.

CHAIRMAN STEVENS: A second by Commissioner Gillespie.

Discussion?

Commissioner Finfrock.

COMMISSIONER FINFROCK: You know, basically -- and it's getting late, so I really -- it's hard to talk sometimes when it gets this late. But I think that as you heard the entire neighborhood, you know, all they're asking for is to protect their property and make sure that -- that we have growth, but smart growth. And I mean I think you heard that in all the testimony here tonight. And that's why I'm going to support a motion for -- for CAR19-26 and ZOA19-7.

CHAIRMAN STEVENS: Okay. Further discussion?

COMMISSIONER GILLESPIE: Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: So this is a little bit
different than sort of a normal permit. I mean this is -- this is like a policy issue. And so we're really having a dialogue with the City Council here, because it's going to go to them. So it is important to me that Councilmen -- Councilwoman Clegg and Councilwoman Sanchez have basically been involved in creating that. And they're pretty close to this problem. The City Council spends a lot of time on this one. So that persuades me to go ahead and support the motion, to let them do what they want to do.

The City has been very clear that this isn't the final word. So I'll support the motion.

I would add just a couple of points that I'd like on the record for sort of my recommendation -- or what I'd like them to think about. One is, should this be temporary? I think that's a really fair question.

Two, is the second point really, the prohibition on substandard lot duplexes, really necessary, given that we're already going to apply the CUP criteria. So that -- we're going to apply the CUP criteria to duplexes where there's three or more bedrooms on each side.

So really what that second clause does is it sweeps up all of the smaller duplexes and just flat
out prohibits them on substandard lots. So I would ask
the Council to really think about is that really what
they intend. I suspect they don't. But I think if
they just get rid of it, we could deal with it in the
CUP, the clause 1. I'm okay with clause 3.

And then finally I would just point out to
the Council, Mr. Hale's data, I think, was very
salient, asking the question of, you know, do we really
have a problem here or should we wait and let the
existing zoning work?

I kind of am partial to that idea. But on
the other hand, I think imposing a CUP requirement is
not that onerous or difficult. So I don't really think
that we're making it a lot harder.

So -- and I also would call Council's
attention to the letter from Will Kemper, which
discusses some of the, you know, broader downsides of
trying to restrict development. And I think the City
is well aware of that. But I think that's a really
interesting discussion to have.

So I'll be supporting the motion, and I'd
like to throw my 2 cents in to Council on that.

COMMISSIONER STEAD: Madam Chair.
CHAIRMAN STEVENS: Commissioner Stead.
COMMISSIONER STEAD: I actually am not sure that
I will be supporting the motion. I would love to see -- I think that maybe I would admit that there's some -- maybe some missing information, maybe some of my questions weren't answered. I'd love to see a more comprehensive vision for this area of the neighborhood that addresses both the needs of the current residents and the growing need for student housing. And perhaps we will see that in the BSU Master Plan.

And -- and I know that we have seen City Council spend a lot of time on this, so they probably have more information than -- they may have more information than we do. But I've heard issues with renters and students, and neither would go away with this overlay.

It sort of seems like maybe plugging a leak that could spring up somewhere else, maybe in single-family homes or maybe somewhere else entirely. I wonder if enforcement of the current code that we have and the administrative process would solve some of these complaints.

We heard that parking requirements aren't being enforced; that they're parking on sidewalks and front yards; that our current building codes and design standards aren't being upheld; and that City ordinances aren't being enforced by the police. None of these
would be impacted by the overlay.

It sounds like maybe enforcing what we have would solve a lot of the issues, and even fraternities and sororities would move into single-family homes if they haven't already. So I guess I'd like to see some -- I'd like to see some of these thoughts compared to what we have on the books already to see if further enforcement of those might mitigate some of these issues we've heard tonight.

COMMISSIONER BRATNOBER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So I'm kind of supporting two folks who probably end up disagreeing with each other. I'm not sure.

But to Commissioner Gillespie's point, I'm just kind of jumping to the bottom line, the CUP is not an onerous thing. It does give us a way to put some brakes on the process. And that's probably reasonable in these times.

I do have probably a stronger objection than Commissioner Gillespie to the clause on substandard lots, because I think we make those decisions here all the time. And why are we saying this is different? No, Planning and Zoning Commission, don't worry about it. We're just going to say no. So
that's a concern of mine that I want to make sure that
the Council considers.

That said, so from a point of view of,
okay, is this a good thing or bad thing. I don't think
it's terrible for us. It does give us some brakes, and
so that's good. However, to the neighborhood and the
neighborhood association, I have a concern, because
I -- I do recognize there were some valid points made
about the structure, the design, and how does it fit.
And so I understand those. Those are some things there
are processes for, and perhaps the CUP is going to help
us get there.

However, I also heard something that had me
a little more concerned, which is that's not the issue
for a lot of folks. It's the students. And I
appreciate that. I was one once. I assure you I was
so much better behaved.

CHAIRMAN STEVENS: Me too.

COMMISSIONER BRATNOBER: Yeah. But so I
understand that, and I'm not condoning it. But as
Commissioner Stead said, there are ways to do this.
And if it's a problem, we should tackle it.

There have been a lot of communities and
universities who have looked at Greek life and the
behavior there and said, Okay, no more. So there are
some things to be done.

   My concern is the CUP is great to have some
conscous thought go into it, but it's not going to
solve that problem for you. That's going to have to be
solved by more conventional ways.

   The last thing I'd like to understand --
and, Cody, I hope I got this wrong when I heard you
talking about the task force, because I don't know if
what you meant was we are -- we are the first and we're
kind of the test case for them before they start going
forward, or that they've reached some conclusions and
Here you go Planning and Zoning. Here's your guidance.
I didn't hear which.

   If it's the former, then I'm quite
concerned, because I think our job here is to interpret
and judge the laws and the code. City Council's job is
to make those laws. And so I'd just like to make sure
I understand that. I'm hoping I heard it wrong.

   So anyway, I will be voting in support of
this, but I'm just concerned that the things a lot of
you are looking for you're not going to get here.

CHAIRMAN STEVENS: Other thoughts?

   I'll go ahead and weigh in. If in fact
this is just an opportunity to talk to Council through
a record, I guess I can support this. But I have a lot
of reservations about this. And it has absolutely nothing to do with not wanting to protect what I think is a really critical part of Boise's fabric, because I do want to do that. And hopefully those of you who have seen me up here long enough know that that's true.

But I think we've got a lot of moving parts here. And when I asked the question to staff about whether or not we could make this temporary, it's because I think that this is a rather drastic step to take for something that's pretty -- I mean it's a permanent and drastic step.

And I completely agree with Commissioner Bratnober, that I'm not sure it accomplishes what the -- what the neighbors' issues actually are. And normally, at least my experience up here, is that when we put an overlay on something, it's because we have a very clear vision on what we're trying to accomplish. And I do not feel that that is what's happening here.

And yet at the same time I recognize that there is a need to do something in the interim. I'm also not convinced that we know yet whether or not what we've already done with the new duplex ordinance that we passed a year and a half ago, or whenever it was, isn't doing that job.
And so I feel like we're being asked to sort of pass on -- again, I'll call it a drastic measure. I do think it's drastic to put an overlay on something, without, number one, having really any statistics in front of us about whether or not the existing and revised duplex code is working and, number two, with, you know, a good process having gone into this that really explains to me to pass this what on earth we're doing and what we're trying to accomplish, what the bigger vision is for this.

So if it were -- if I were the final decision-maker on this, I would not pass it as it is today. I will say that right now. And again, it's not because I don't think something needs to be done. I sense that probably something does still need to be done, and that the last duplex ordinance maybe didn't quite finish the job.

But we have the Boise State Master Plan coming to us next week. There's apparently a working group that's sort of just barely getting off the ground. And to put an overlay that's permanent on a rather large chunk of our city that's close to the university and close to the core of the city, ugh, I'm just really uncomfortable with it.

So, you know, Commissioner Gillespie, maybe
you can enlighten me a little bit about whether or not this is truly just -- you think this is really just a -- you think that a vote yes doesn't necessarily mean I support it, especially now that I've said all this?

COMMISSIONER GILLESPIE: Madam Chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Might I suggest that you -- perhaps somebody wants to propose an amendment to add either to delete condition -- or clause 2 and/or add a clause that sunsets -- says this is a one-year time limit, both of which are certainly in our purview to recommend to Council.

And if that would more accurately reflect the will of this body as making a recommendation as in a sense talking to Council, then I think we should do that.

COMMISSIONER STEAD: Madam Chair.

CHAIRMAN STEVENS: Commissioner Stead.

COMMISSIONER STEAD: Yeah. I guess I would feel more -- I know that there's -- there's a lot of discussion right now on the City Development Code and zoning and revisiting the Comprehensive Plan. And I guess that's -- I feel as you stated, I feel like there's more information to come in the next year or maybe two years. I don't know.
But it would -- I would feel more
comfortable supporting a recommendation for this that
it, you know, sunsets perhaps when -- when the findings
come from the task force and the Development Code -- I
don't know what you call it.

COMMISSIONER GILLESPIE: Madam Chair.

CHAIRMAN STEVENS: Form base code, I think. Is
that what you're referring to?

COMMISSIONER STEAD: Well, no. I don't know
that it is form base code yet. But they have a
consultant who's looking over with a lot of citizen
input, looking over the Comprehensive Development Code.
And I would be interested in some of those findings
that are going to come out soon, because I feel like
the City's investing a lot in the big picture of all of
these issues that we're experiencing.

And it's hard for me, like I've said, to
kind of plug our finger in the hole here and not see
that it's going to cause other issues down the road in
different areas.

COMMISSIONER BRATNOBER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: I'd like to propose an
amendment along the lines of what
Commissioner Gillespie said, basically to delete the
second clause, which totally bans substandard lots.

And then I would propose that this -- this
overlay that we're contemplating right now expire
within a year or when the City Council task force
has -- and I don't know if we can do this
conditionally, otherwise I'll go with a year. But once
the City Council task force --

COMMISSIONER GILLESPIE: It is one year at this
point.

COMMISSIONER BRATNOBER: -- makes their call and
says this is what the overlays are, that this would be
part of that. Otherwise, a year. So I guess I'm
looking to Council. Is that --

UNIDENTIFIED SPEAKER: [Unintelligible.]

I would like to recommend, then, that this sunsets at
such time as the City Council has made a call on
overlay or a year, whichever comes sooner.

COMMISSIONER GILLESPIE: Madam chairman.

CHAIRMAN STEVENS: Commissioner Gillespie.

COMMISSIONER GILLESPIE: I'd be willing -- may I
dialogue for just a second with the [unintelligible]
maker?

CHAIRMAN STEVENS: Go ahead and then --

COMMISSIONER GILLESPIE: It just needs to be a
year, Jim, because I don't know what "made a call" means. The City can always go back and revise the ordinance whenever they -- the Council can do that. But what we're really saying to them is we recommend that this thing end in a year. Of course if they're done sooner and want to change it, they can.

COMMISSIONER BRATNOBER: Fair enough. Thank you.

COMMISSIONER GILLESPIE: Oh, can we -- could you restate your amendment, please.

COMMISSIONER BRATNOBER: Okay.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: Thank you.

I move that we amend the motion, basically removing the second clause that prohibits any duplexes on substandard lots, or duplexes with three or more, and then that we make the overlay persist for no more than a year.

COMMISSIONER GILLESPIE: Second.

CHAIRMAN STEVENS: Okay. I think that what we need to do, since it's an amendment, is ask the original maker of the motion whether or not she agrees to the amendment.

COMMISSIONER FINFROCK: Madam Chair.

CHAIRMAN STEVENS: Yes.
COMMISSIONER FINFROCK: I agree.

CHAIRMAN STEVENS: Commissioner Finfrock agrees.

COMMISSIONER GILLESPIE: And I agree as the seconder.

CHAIRMAN STEVENS: The seconder is Commissioner Gillespie, and he also agrees.

So the current motion on the table, does anybody need me to restate it or are we clear?

UNIDENTIFIED SPEAKER: [Unintelligible.]

CHAIRMAN STEVENS: Okay. Is there any further discussion?

COMMISSIONER SCHAFER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: I've been quiet thus far, so I just wanted to sound off that I think that that's a good solution to this problem, because I agree with the other comments from up here that I'm not sure that the duplex issue is really the problem. So I think that this is giving us a year to push the pause button and let the BSU Master Plan sort of work itself out a bit and maybe flush out some of these other problems that the neighborhood is facing. I think that's a good solution. We get some resolution here, yet not create a greater problem down the road that persists.

CHAIRMAN STEVENS: Excellent. Okay. I guess
we'll call the roll, and this will be the last vote
that our Commissioner Ansotegui will make.

COMMISSIONER GILLESPIE: Dun da da duh.

CHAIRMAN STEVENS: Can we call the roll, please.

THE CLERK: Commissioner Bratnober.

COMMISSIONER BRATNOBER: Aye.

THE CLERK: Commissioner Stead.

COMMISSIONER STEAD: Aye.

THE CLERK: Commissioner Schafer.

COMMISSIONER SCHAFER: Aye.

THE CLERK: Commissioner Stevens.

CHAIRMAN STEVENS: Aye.

THE CLERK: Commissioner Ansotegui.

COMMISSIONER ANSOTEGUI: Aye.

THE CLERK: Commissioner Finfrock.

COMMISSIONER FINFROCK: Aye.

THE CLERK: Commissioner Gillespie.

COMMISSIONER GILLESPIE: Aye.

THE CLERK: All in favor, motion carries.

CHAIRMAN STEVENS: Thank you, everyone, for your
patience tonight for staying with us. Have a wonderful
rest of your week. And if it's snowy out, drive
safely.

(End transcription at 4:25:11 of audio

file.)
4. **CAR19-00027 / Hawkins Companies**  
431 S 11th St  
Rezone of 2.383 acres from R-ODD (Residential Office with Downtown Design Review) to C-5DD (Central Business with Downtown Design Review). Karla Nelson

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<td>Jim Bratnober, Commissioner</td>
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<td>AYES:</td>
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<td>ABSTAIN:</td>
<td>Ben Zuckerman</td>
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CITY OF BOISE PLANNING AND ZONING COMMISSION

IN RE:

CAR19-00027 / Hawkins Companies

_____________________________________

TRANSCRIPT OF RECORDED PUBLIC HEARING
MONDAY, JANUARY 13, 2020

COMMISSIONERS PRESENT:
JENNIFER STEVENS, CHAIR
TAMARA ANSOTEGUI, CO-CHAIR
JIM BRATNOBER
JANELLE FINFROCK
MILT GILLESPIE
BOB SCHAFER
MEREDITH STEAD
BEN ZUCKERMAN, STUDENT COMMISSIONER

TRANSCRIBED BY:
VICTORIA HILLES
INTRODUCTION

CHAIRMAN STEVENS: But we are going to actually just take up Item No. 4. We have only one member of the audience tonight, and it's going to be a quick report. So we're going to take that up without objection first before we move onto our next lengthy hearing. So with that, we'll hear from Karla.

KARLA NELSON: Madam Chair and Commissioners, before you is a request to rezone 1.3 acres comprised of five parcels from the residential office with Downtown Design Review to central business with Downtown Design Review in a development agreement zone.

The site is downtown on the west side of 11th Street and includes parcels on both sides of Miller Street. Note that a portion of the original request along Lee Street has been withdrawn.

Existing uses on site include a temporary, unimproved surface parking lot and three single-family residences on the north side of Miller Street. A private school with an improved surface parking lot occupies a portion of the area on the south side of Miller Street.
Conceptual floor plans -- conceptual floor plans for the parcels on the north side of Miller Street envision a four-story residential structure with 30 to 36 units ranging in size from 470 to 970 square feet each. No conceptual plans have been provided for the area south of Miller Street.

While plans would be preferable, the Planning Team is supportive of the rezone request in this situation without any plans, as any future development will be required to adhere to the Downtown Design Review standards. And furthermore, the uses allowed within the C-5 zoning district are appropriate for the area.

The subject site is designated mixed-use on the land-use map, which is meant to support activity center development. The site is located in the Downtown Regional Activity Center where Blueprint Boise envisions large-scale employment and retail uses, high-density residential, and mixed-use development, all of which supports the rezone request.

The vision for the area is further defined by the River Street/Myrtle Street Urban Renewal Master Plan adopted in 2004 and the Neighborhood-Specific River Street Master Plan adopted in 2017. Both plans identify the areas preferred for a residential
emphasis with mixed-use towards the edge of the
neighborhood. The 2004 plan acknowledges the need for
more density than allowed in the R-O zone. The
proposed rezone is consistent with the density and
style of development envisioned by these plans.

While nearly every zoning district is
permissible in the mixed-use land-use designation,
only a few zones can support the broader goals of the
Downtown Regional Activity Center and the associated
Urban Renewal and Neighborhood Plans. Of all the
zones, a requested C-5 zone is most appropriate.

Downtown has grown significantly over the past several
years, and downtown-style development now makes sense
for the proposed rezone area.

The current R-O zoning has restrictions with
setback, height, and density allowances. For example,
the Applicant found that due to the increased
setbacks, a portion of the rezone area north of Miller
Street can only accommodate 28 units with the current
R-O zone while preliminary concept plans support
38 units under C-5 zoning.

The C-5 zone is also more conducive to
mixed-use developments and allows for greater
utilization of land. This style of development allows
for an urban streetscape that caters to the pedestrian
experience, as active uses are placed on the street property line. Adherence to the downtown design standards and C-5 development standards will ensure that the property develops with a pedestrian-oriented design.

One area of concern with a rezone to C-5 is the absence of a height limit. Given that single-family homes are in close proximity along Lee Street, the lack of height limits could cause compatibility concerns. Unlimited height is also inconsistent with the adopted master plans that envision structures of up to six stories in the district.

The Applicant has addressed this potential conflict with the inclusion of a development agreement that includes a six-story height limit on the portion of the property north of Miller Street and a five-story height limit for the portion of the property on the south side of Miller Street.

The current R-O zone allows for 65 feet in height, but this is limited to 45 feet when adjacent to single-family use or zone, as is the case for much of the proposed rezone area. The proposed development agreement allows an increase in height to what is currently allowed but not an unlimited height, as a
C-5 zone would normally allow. The Planning Team finds these limitations to be appropriate.

In conclusion, the Planning Team recommends approval of the rezone request and development agreement, as it meets all approval criteria. The Commission will need to make a recommendation to City Council.

Thank you.

CHAIRMAN STEVENS: Thank you.

Is the Applicant present?

If we start with 10 minutes on the screen is that good?

BRANDON WALEN: Ma'am, I hope to take much less than that.

CHAIRMAN STEVENS: Okay. Great. Thank you.

BRANDON WHALLON: For the record, my name is Brandon Whallon. I'm with Hawkins Companies located at 855 West Broad, Boise, Idaho.

Thank you for the opportunity to present our application for a rezone from R-O with the Downtown Design Review requirement to C-5 with the Downtown Design Review and a development agreement.

The property in question is what, presented by Planner Turner, was that -- it's shown in yellow. And it is an extension of the C-5 zone across 11th Street.
Through the application process, Hawkins Companies used to have a parking field where the Inn at 500 is currently located. Gary Hawkins and Hawkins Companies knew there was a higher and better use with that property, and so we moved our employee parking lot from that property to these two properties here along 11th Street. We've always thought there was a higher and better use than surface parking for this property, and so we decided that the C-5 zone would be most appropriate for investment in this property.

We held our neighborhood meeting, which requires all property owners within 300 feet to be notified. And so in that meeting, we had other property owners come forth and say, "You know what? C-5 on our property might also be appropriate." So our rezone then grew to this configuration.

I shared those findings with the Planning Staff. And they felt that because this was such a substantial increase in the area to be considered for the rezone, they wanted us to have another neighborhood meeting.

So we sent out notice to, again, all property owners within 300 feet, and it brought more property owners to the meeting. And some of those property owners owned substantial amounts of property that were
south of Lee Street, and they felt that the C-5 zone
would also be appropriate for their property as well.

    And I did share that with the City Planning
Staff. And at the same time, they were saying that a
development agreement might be warranted to protect
those homes that are south of Lee Street.

    So in the neighborhood meeting, I'm hearing
from property owners south of Lee Street saying "By
gosh. Maybe we should be be included in that zone as
well." Staff was saying, "Maybe we should tier down
the overall heights to protect those homes south of
Lee Street."

    So I did share the findings with the property
owners and told them that we couldn't stall our rezone
request, but we would surely support their -- or
appreciate their support. And they are here tonight.
At the same time, because there was no conceptual plan
associated with the property in yellow that was
identified for four stories in overall height, they
decided to go ahead and remove their property from
this rezone request. And that's shown here in blue.

    So at this point in time, I think I would like
to reflect back on the highest and best use.
Mr. Hawkins decided that the use of the property on
the southeast corner of Myrtle and Capitol would be
best used for the Inn at 500, and we think that this
property here is ripe for better uses than are
currently there now.

And I think that this entire area that's
bordered by the Pioneer Path, as it comes down to -- I
think it's Ash Street and then River Street here --
this entire area, I think, is ripe for investigation
to the C-5 zone because it's not being invested in and
improved in the R-O zone and property owners,
comprising over 80 percent of this area, think that
the C-5 zone would be warranted on their property.

I counted. I think there's 47 residential
units in this four-acre area. And if we were to
develop it at its highest and best use, if it was all
zone C-5, we would probably see 360 residential units
within that four-acre area.

So at this point in time, I would like to --
the annexation or the rezone request before you today
has -- is comprised of this area with the development
agreement restricting the overall height to six
stories on -- in the red and five stories in the
green. But I think there could be a conversation that
the entire area should be rezoned C-5. Most of it,
especially along the border, has already been
developed, and that might be the incentive for the
property owners within this entire area to reinvest
and get a higher and better use of their property and
get some substantial amounts of dwelling units as
close to the heart of downtown as possible.
So with that, I stand before you requesting
support of the rezone CAR-1900027, and I would stand
for any questions that you may have.

CHAIRMAN STEVENS: Thank you, Mr. Walen.
Are there any questions for staff or the
Applicant at this time?
Okay. Thank you very much.

There is nobody on the sign-up sheet. We did
have one hand go up when I asked to put this on
consent.

Oh. Good. Excellent. If you could --

BRIAN AMBERG: [Unintelligible].

CHAIRMAN STEVENS: Okay. No, that's great.
Go ahead and step forward, please. And since you
aren't on the sign-up sheet, I just do need you to
fill out one of the little white slips before you
leave tonight and hand it up or leave it on the table
there for us.

CÉLINE ACORD: Madam Chair.

CHAIRMAN STEVENS: Yes.

CÉLINE ACORD: Point of order, just
neighborhood association. I don't think they're here, but just in case.

CHAIRMAN STEVENS: Oh. Thank you.

Downtown Neighborhood Association, is Mr. Flaherty [phonetic] here or any other representative of that neighborhood association? I apologize.

Thank you, Céline.

NEIGHBORHOOD ASSOCIATION

N/A

CHAIRMAN STEVENS: It's already getting late.

Okay.

PUBLIC TESTIMONY

CHAIRMAN STEVENS: Start with your name and address, please.

BRIAN AMBERG: My name is Brian Amberg. I live at 515 South 14th Street, which is in the Pioneer Neighborhood.

First of all, I am informed tonight that there was a neighborhood meeting. I was not invited to this, although I am not a property owner. I imagine it was actually a property owner's meeting, not a neighborhood meeting, and I think that it was misrepresented by calling it such because not all [unintelligible] holders were invited, only the people
who owned property.

Secondly, this -- the area in red -- the map's gone now, but the area in red, which is the area on the southeast corner of 11th and Myrtle, is -- was described as a parking lot for the employees of Hawkins. And while there is a parking lot there, there are also two homes.

One of those homes is owned by a cabdriver who also is a disabled veteran. I happen to know he lives there because he gave me a ride at one point, and we hit it off over both being disabled veterans being treated at the VA here in Boise. And I was made aware that his home was under threat, and that's why I'm here tonight.

And I also learned at this meeting that the people who are trying to tear his home down are -- have been talking to -- in these property owner's association meetings, not neighborhood meetings, however they want to be characterized.

But -- pardon me, I've lost my train of thought. I didn't bring any notes.

I guess the way that I feel is that if this project is allowed to continue, that means that not only will all these property owners who've been made aware that, Hey. You could be building a much taller
building and kicking out all of your existing
residents and displacing them for a while, that this
will happen to my section of the neighborhood as well.
I live on the western end of Pioneer, on 14th Street.
And I'm basically watching as my neighborhood is going
to be torn down, and I'm told this is for the progress
and this is for everyone's betterment.

   But in the meantime, after having heard a
year of all the politicians locally saying that our
homeless population is in crisis and we need to worry
about homeless people, we're going to be adding
homeless people to the homeless population. And we're
being done so by people who describe a lot and a
parcel that has two homes as being nothing more than a
parking lot. And I would just like to remind everyone
on the Council that real people will be displaced by
this.

   Thank you.

CHAIRMAN STEVENS: Thank you. Thank you.

Anybody else who cares to testify tonight on
this application?

I know.

Okay. Go ahead and step forward, please.

LEON SCOTT: Good evening. My name's Leon
Scott. I reside at 2218 West State Street in Boise,
Idaho.

And for a number of years now, our family has owned approximately a half-acre parcel on Lee Street, which would be, actually, on the southern -- the extreme southern side. So it's bordered by -- it's not in the particular area at this point, which is being suggested to have the zone change, but we certainly would support that.

It's ready for some increased -- you know, higher and better use. I mean it's served our purpose for our family. It's been a great thing, but it is -- it's ready to develop. It's in the path of development, and it supports the housing that's needed for downtown. And so we're in support of that.

Thank you.

CHAIRMAN STEVENS: Thank you, Mr. Scott.

Anybody else who would care to testify on tonight's -- this application No. 4?

Go ahead and step forward.

If there's anybody else, if you would just come forward and sit up here at the front since we don't have a sign-up sheet, it'll make things go a little bit quicker.

ALLEN DIXON: Hi. My name is Allen Dixon. I live at 1121 Lee Street.
I do own property in the area. It's been kind of stagnant down there. There has been some apartments built on Ash Street next to where I live. They look very nice. They're probably higher renters. But the area is due to be improved a little bit down there. It wouldn't hurt me if they raised the zoning. And if something happened, that'd be fine with me.

Thank you.

CHAIRMAN STEVENS: Okay. Thank you. Be sure to fill out the little white slip.

So since nobody came forward, I'm guessing there's nobody else who wants to testify.

REBUTTAL

CHAIRMAN STEVENS: So with that, we'll go ahead and go to rebuttal.

Mr. Whallon, if you have anything you want to add.

BRANDON WHALLON: Thank you for the opportunity to rebut.

I would say that the second neighborhood meeting that the staff requested that we conduct, it did send mailers out to the property owners and the tenants of all properties within 300 feet of the subject property.
It sounds like the gentleman that spoke lives on 14th and Pioneer, which would be outside of that 300-foot range. So we apologize that he was not invited to our neighborhood meeting, but it was intended to be inclusive.

I would say that we are trying to look at the best use of the property. That would include the two homes that are on the property. There is one on the surface parking lot that we own as well as the home that the gentleman referenced. We do own that as well.

But we would be looking to replace those two homes with more homes, hopefully, as Planner Turner stated, from 470 square feet up to 920. But we don't have any hard plans at this point in time. They're just conceptual. We were just doing our due diligence to see what kind of opportunities may be available, but we think that the opportunity to investigate the opportunities associated with the C-5 zone opens the door for new possibilities and new investment in this area that I believe is ripe for investment.

So thank you.

CHAIRMAN STEVENS: Thank you very much.

With that we'll go ahead and close the public portion of the hearing.
MOTIONS

CHAIRMAN STEVENS: How would the Commission like to proceed?

BRIAN AMBERG: [Unintelligible] to say about that.

CHAIRMAN STEVENS: Oh. I'm sorry. No. That's the -- yeah. Everybody gets three minutes. It's in City code and, yeah, your three minutes was taken. Thank you.

How would the Commission like to proceed?

If you would entertain a motion . . .

COMMISSIONER SCHAFER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: I'm going to move to approve CAR 19-27 with the terms and conditions as detailed in the staff report.

CHAIRMAN STEVENS: Is there a second?

COMMISSIONER BRATNOBER: Second.

CHAIRMAN STEVENS: Second by Commissioner Bratnober. First by Commissioner Schafer.

Discussion?

COMMISSIONER SCHAFER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Schafer.

COMMISSIONER SCHAFER: I certainly appreciate comments, you know, concerning the redevelopment of
the area. But I agree with staff and the arguments they made in the staff report that this zone seems to support the change in designation. I think it's a good opportunity to look at increasing our housing downtown and redevelopment in that area.

CHAIRMAN STEVENS: Anything further?

COMMISSIONER BRATNOBER: Madam Chair.

CHAIRMAN STEVENS: Commissioner Bratnober.

COMMISSIONER BRATNOBER: So yeah. I'm obviously supporting this. I believe that, as some of the residents in the neighborhood said, it needs to be developed. This is the time.

One thing I am quite interested in, because the plans appear to be somewhat fluid, is that Hawkins really looks at the issues and needs that we have in our city for housing, and particularly for affordable housing.

CHAIRMAN STEVENS: I'll just say a few things before we call the roll.

I'm very concerned about this whole area. Because I think when we adopt renewal districts, like we've done in this area, we, you know -- we tend to -- we're in danger of losing some of the character that has characterized the area in the past. And I know that this particular neighborhood has always been a
working-class neighborhood. And in fact, it's one of
the only neighborhoods, if not the only neighborhood,
that has housed African-Americans in this city for
many, many years. And I'm very, very concerned that
by demolishing our housing stock in this area, which
currently has no protections in our City ordinance,
that we're going to be doing away with a lot of the
city's history.

And I worry that when we do that, we lose our
facilitation of attachment to place and makes the
people who come here, the new residents, the thousands
and thousands of them that are coming right now have
no understanding of what came before and make them --
help them understand how we got to be where we are
now.

So as we move forward, I'm going to be
supporting the motion. But as we move forward in this
area and we do begin to see it redevelop, I'm going to
be looking for the developers to make some overtures
to that, to pay attention to what's there, to be
sensitive to the cultural history that's in the area
and to the significance of this particular
neighborhood to the past of this city.

So I'm going to be supporting the zoning
change because I think it's the right place for
this -- the right thing for this particular space, but I'm very concerned about this neighborhood and I want to make sure that we're redeveloping it correctly.

So. . .

Anybody else?

Okay. Will the clerk please call the roll.

ROLL CALL

THE CLERK: Bratnober.

COMMISSIONER BRATNOBER: Aye.

THE CLERK: Stead.

COMMISSIONER STEAD: Aye.

THE CLERK: Schafer.

COMMISSIONER SCHAFER: Aye.

THE CLERK: Stevens.

CHAIRMAN STEVENS: Aye.

THE CLERK: Ansotegui.

COMMISSIONER ANSOTEGUI: Aye.

THE CLERK: Finfrock.

COMMISSIONER FINFROCK: Aye.

THE CLERK: Gillespie.

COMMISSIONER GILLESPIE: Aye.

THE CLERK: All in favor. Motion carries.

CHAIRMAN STEVENS: Thank you.

Thank you for those of you who stayed.

(End transcription at 2:44:05 of audio file.)

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V. ADJOURNMENT