



PLANNING AND DEVELOPMENT SERVICES

MAYOR: Lauren McLean | DIRECTOR: Tim Keane

MEMO

TO: Mayor and Boise City Council
FROM: Josh Wilson, Interim Deputy Director, Current Planning
RE: CUP21-00026
HEARING DATE: May 24, 2022

BACKGROUND

On April 18th, 19th, 20th, 21st, and 25th, 2022, the Boise City Council (“Council”) heard an appeal related to the Planning and Zoning Commission’s (“Commission”) denial of a Conditional Use Permit to operate a shelter home on an approximately two-acre site located at 4306 W State St in C-2D (General Commercial with Design Review) and R-1C (Single Family Residential) zones. A general exception to apply the commercial zoning standards to the entire project was included.

Council found the Commission erred because the Commission did not adequately examine whether additional conditions of approval could have brought the proposal into compliance with the required findings for a Conditional Use Permit. Council reversed the Commission’s decision and approved the application with conditions.

In addition to the findings and conditions of approval originally proposed by the Planning Team (contained in in the November 15, 2021 Planning and Zoning Commission project packet), the Council added additional conditions of approval that specifically mitigate the burden on public facilities in the vicinity and the potential adverse impacts of the proposed use on the surrounding area. These conditions are based on shelter best practices and recommendations from relevant agencies. These conditions of approval are discussed in greater detail below.

REQUESTED ACTION

Approval of the attached Appeal Findings, Reason Statement and Conditions of Approval

ATTACHMENTS

Appeal Findings, Reason Statement and Conditions of Approval

APPEAL FINDINGS

The Commission did not adequately examine whether additional conditions of approval could have brought the proposed use into compliance with the required findings for a Conditional Use Permit. The Commission's decision acknowledged the possibility of mitigating adverse effects on the neighborhood and burden on public facilities, but the Commission stopped short of identifying, considering, and imposing such sufficient conditions. As set forth in detail in the Reason Statement below, the proposed use satisfies all ordinance criteria as appropriately conditioned. Additionally, the Commission did not evaluate the record (or conduct further inquiry) to identify objective standards for, and all necessary elements of, the plans and further application materials that the Commission determined the applicant had failed to provide. The decision was therefore arbitrary, capricious, or an abuse of discretion in that it was made without rational basis, or in disregard of the facts and circumstances presented.

REASON STATEMENT

As conditioned, the proposal meets the approval criteria for a conditional use permit (BCC 11-03-04.6.C(7)(a)). The shelter is compatible with other uses in the neighborhood. The project is located along State Street, a mixed-use transit corridor comprised of a wide variety of residential, commercial, office, and light industrial uses. A public library, park, and grocery store are all located within one-half mile of the site. These will provide services to residents of the home. The immediate availability of transit will allow access to other services and amenities not within walking distance.

Additionally, the site is large enough to accommodate the proposed use as limited in the conditions of approval. Most of the operations will be housed within the two existing buildings. These buildings, along with a proposed day room and bicycle parking area will meet required setbacks. All required parking, amenities, landscaping, screening, and service areas have been provided.

Conditions of approval will ensure that the shelter does not adversely impact other property in the vicinity. This includes requirements associated with the operation of the facility, limits on occupancy, property maintenance and upkeep, design elements, and improvements to the site and the adjacent right-of-way. In many ways, the conditions restrict the intensity of the use and integrate it more predictably with the neighborhood and with public facilities so that externalities can be minimized, such as potential nuisances on the site and calls for service from public safety agencies. Ongoing compliance with these conditions of approval will be subject to review at six months after occupancy, and on an annual basis moving forward.

Correspondence from commenting agencies confirms that the conversion from a retail establishment to the proposed home will not place an undue burden on the transportation system or other public facilities. As the responsible agencies in public safety, the Boise Police Department and Boise Fire Department recommended conditions of approval that could be placed on the application to address potential burdens and adverse impacts, and these were included as conditions of approval. Conditions also address transportation burdens.



The proposed shelter use is consistent with the Comprehensive Plan, including elements focused on sustainability (*Policy ES9.5*), housing, social services, and transit-oriented development. The plan promotes housing and services along transit routes maximizing accessibility to those in need. (*Goal SHCC15 and Policy SHCC14.2*) The plan also includes a host of policies supporting housing like the proposed shelter use. *Goal NAC9* promotes housing of low- and moderate-income households. *Policy NAC 9.5* identifies the need for housing for those experiencing homelessness. The shelter will also provide housing for those in need along an existing transit corridor. (*Principle GDP-C.5 and Policy NE-CCN2.5*) In addition to housing, the facility will provide a host of support services.

CONDITIONS OF APPROVAL

1. The facility is limited to a maximum of 205 beds (excluding cribs). This maximum occupancy includes emergency situations; emergency temporary shelter shall not exceed this limit. This maximum occupancy will reduce the overall intensity by ensuring that the facility does not become overcrowded.
2. The facility shall comply with plans and specifications submitted to and on file in the Planning and Development Services Department dated received April 28, 2021 and the revised project drawings and letter dated September 28, 2021, except as modified herein.
3. The site layout, including placement of amenities and other features shall be based on the landscape plan dated September 28, 2021, except as modified herein
4. Design Review approval is required prior to submittal of construction permits. In addition to the standard considerations, the application shall address the following:
 - a. Perimeter fencing/screen wall design.
 - b. Pedestrian circulation routes and directional signage in front of the building.
 - c. Distribution of waste receptacles around the site.
 - d. Install safe syringe disposal in partnership with Idaho Department of Health and Welfare
 - e. Site lighting.
 - f. Bus shelter design and placement in coordination with Valley Regional Transit.
5. Professional staff, including at least one individual trained in basic first aid, shall be on duty in the facility at all times while guests are present. All staff shall be trained in operational and safety procedures specific to the shelter, including but not limited to:
 - a. Motivational interviewing
 - b. Trauma-informed care
 - c. Diversion
 - d. De-escalation and conflict resolution
 - e. Healthy boundaries
 - f. Mental health and addiction issues and causes
 - g. Harm reduction techniques
 - h. Impact and complexities of homelessness
 - i. Diversity, equity, and inclusion



6. The onsite parking lot shall not be used for vehicle storage; provided, however, that vehicles used by the facility may be parked in the lot when not in use. Only operational, insured vehicles with current (unexpired) registration may be parked in the lot. The facility shall proactively report known guest vehicles not parked on the applicant's property but located in the Perimeter Area (boundaries of the property) or Magnet Areas (known locations) to Our Path Home STREET OUTREACH and Code Enforcement.
7. The perimeter screen wall shall be eight feet in height.
8. The facility shall offer the opportunity to enter into a Good Neighbor Agreement between the shelter operator and those nearby residents, neighborhood associations, and business owners who choose to accept the offer. This agreement shall require that reported problems shall be presented to the Executive Director within 24 hours. Our Path Home shall be designated as the mediation body for reported problems which are not resolved through the process outlined in the agreement. A copy of the agreement, signed by the operator, and willing parties, shall be provided to Planning and Development Services. The facility shall meet with the parties who have entered into agreements no less often than quarterly. The Boise Police Department and Our Path Home may require that these meetings happen as often as monthly depending on shelter operations and problems reported.
9. Outdoor activity behind the primary building shall only occur between the hours of 7:00am and 9:00pm daily, and dedicated family space shall be separated from other outdoor spaces.
10. Smoking shall be prohibited in all areas north of the service drive that parallels the primary building.
11. The shelter shall be open to residents 24 hours a day, 7 days a week. Evening check-in for overnight guests shall be limited to between the hours of 5:00pm and 7:00pm. Emergency check-in after 7:00pm shall take place in front of the building.
12. In addition to a commercial dumpster, the facility shall provide smaller trash receptacles where people gather regularly around the site. The dumpster shall be serviced regularly, in accordance with Public Works standards, to ensure overflow does not occur.
13. The facility shall remove trash not placed in the required receptacles a minimum of twice a day. A litter patrol shall be performed within the Perimeter Area (boundaries of the property) and Magnet Areas (known locations) weekly.
14. Outdoor speakers and amplified music are prohibited between the hours of 8:00pm and 10:00am, daily.



15. Sleeping overnight outside the buildings, on the property, is prohibited. Sleeping within tents or vehicles on the property is likewise prohibited.
16. In addition to the bicycle parking proposed behind the building, a rack, or racks, accommodating a minimum of ten bicycles, shall be provided in front of the building, as close to the primary entrance as practical.
17. The facility shall work with Valley Regional Transit ("VRT") to install bus stops on both sides of State Street in front of the facility and identify any amenities and enhancements that will be needed to serve the population of the facility. The facility will be required to participate financially in any enhancements that exceed what VRT would otherwise have planned if other funding is not available for such improvements.
18. After six months of occupancy, a report on compliance of the facility with conditions of approval shall be prepared and presented to Council for consideration at a worksession. Thereafter, the facility shall prepare a compliance report annually for consideration at a worksession. The compliance report shall be provided to the Planning and Development Director at least 14 days prior to the Council worksession.
19. The facility shall meet monthly with a representative of the Boise Police Department and Our Path Home to discuss operations and enforcement challenges. The facility shall share summary data on number of incidents logged (including all calls for de-escalation) and provide a monthly Homeless Management Information System (HMIS) report on shelter outcomes. The report shall be available to the public, with any confidential client information withheld as necessary.
20. The facility shall submit a security plan to Planning and Development Services for review and approval by the Director after consulting with the Boise Police (BPD). The plan shall identify security systems and processes based on this consultation. It shall include the following:
 - a. All recommendations of BPD outlined in comments dated November 5, 2021 shall be met,
 - b. Physical security measures (wanding/metal detector, security surveillance equipment inside and outside the building),
 - c. A three tier de-escalation strategy referenced in the Our Path Home evaluation,
 - d. Boise Police Department right to trespass, and
 - e. An Incident Log to record, at a minimum, incidences of physical violence, threats, theft, medical issues, disruptive behavior, mental health issues, Code of Conduct violations, and anytime emergency services are contacted.



21. The applicant shall comply with the requirements of the Boise City Public Works Department (BCPW) in the memos from:
 - a. Streetlights dated October 20, 2021,
 - b. Sewer dated May 18, 2021,
 - c. Solid Waste dated October 19, 2021, and
 - d. Pretreatment dated October 4, 2021.

Contact BCPW at 208-384-3900 for specific comments or questions.

22. The applicant shall comply with the requirements of the memo from the City of Boise Fire Department dated May 27, 2021 and October 27, 2021.
23. The facility shall not expel guests between the hours of 7:00pm and 7:00am except upon coordination with other area shelters and the Boise Police Department, or as otherwise specifically provided in the conditions of approval.
24. The facility shall coordinate with other area shelters to provide transportation to another facility in instances where an individual cannot be served at the subject facility. In instances where an individual cannot be served due to sex offender status and/or a behavioral issue, Boise Police department shall be notified.
25. The facility shall have separate intake processes and physical spaces for families with children and adult-only households. The intake areas shall include physically separate waiting areas.
26. The facility shall include physical barriers between the spaces designated for families with children and adult-only households. These barriers shall include locked doors.
27. The facility shall participate in coordinated entry and connect every shelter guest with Our Path Home CONNECT. Every guest shall have a housing plan.
28. The facility shall use Our Path Home's Homeless Management Information System (HMIS) and enter the universal data elements into the system.
29. An occupancy permit will not be issued until the entire project, including the warming room, kitchen, landscaping, and outdoor improvements are constructed.
30. A daytime-hours ratio of at least one seat per two beds shall be provided.

