



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:
Application of Maverik
Project No. 201301823 S

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

- A. The Board finds that the record is comprised of:
1. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
 2. All other information contained in Ada County Development Services File for Project No. 201301823 S.
- B. As to procedural items, the Board finds the following:
1. In accordance with Section(s) 8-6-3A/8-7-3A2/8-7-4A1 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on October 22, 2013.
 2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on November 6, 2013 and December 4, 2013.
 3. On November 20, 2013, Development Services accepted Project #201301823 S and scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 13, 2013.
 4. On November 27, 2013, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report.
 5. On December 2, 2013, property owners within 300 feet of the site were notified of the hearing by mail. Legal notice of the Commission's hearing was published in The Idaho Statesman on January 28, 2014. Notices of the public hearing were posted on the property on or before February 3, 2014 and a certification sign posting was submitted to the director on or before February 6, 2014.
 6. On February 13, 2014, the Commission voted to recommend approval of this application to the Board of Ada County Commissioners.
 7. On February 19, 2014, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as exhibits.

8. On February 19, 2014, property owners within 300 feet of the site were notified of the hearing by mail. Legal notice of the Board's hearing was published in *The Idaho Statesman* on January 28, 2014. Notices of the public hearing were posted on the property on January 30, 2014 and a certification sign posting was submitted to the director on January 30, 2014.
- C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201301823-S the following:
1. PROPOSED USES – A two lot commercial subdivision is proposed
 2. PROPOSED STRUCTURES – Commercial structures.
 3. PROPOSED SITE IMPROVEMENTS – NONE.
- D. Based on the materials found in the file for Project No. 201301823 S, the Board finds the following concerning the project description:
1. PARCEL NUMBER AND LOCATION
The parcel number is R5120006835 and is located at 6168 S. Cloverdale Road.
 2. OWNERSHIP
The property is owned by Maverik Inc.
 3. SITE CHARACTERISTICS
Property size: The property contains 2.549 acres.
Existing structures: A 4,377 sq. ft. convenience store with a fuel island and canopy.
Existing vegetation: The site consists of commercial landscaping, grasses and weeds.
Slope: The site is relatively level with less than an eight percent (8%) slope.
Irrigation: The property is within the Boise Project Board of Control and Boise-Kuna/New York Irrigation Districts.
Drainage: Drainage will be contained onsite. Natural drainage occurs to the north.
Views: Generally open views in all directions.
- E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:
- The property is zoned Neighborhood Commercial (C-1) District. The property consists of a convenience store with fuel island and canopy.
- F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:
- North: The site is residential and is located in the Medium Density (R6) District.
South: The site is residential and commercial and is located in the Estate Residential (R1) and Neighborhood Commercial (C1) District.
East: The site is vacant ground and is located in the Neighborhood Commercial (C1) District.

West: The site is vacant land and is located in the Limited Office (LO) and Neighborhood Commercial (C1) District.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201301823 S, the Board finds the following concerning services:

Access Street and Designation: Access is off E. Lake Hazel Road, designated as a Principal Arterial Road, and S. Cloverdale Road, designated as a Minor Arterial.

Fire Protection: Whitney Fire District.

Sewage Disposal: Boise sewer.

Water Service: United Water.

Irrigation District: Boise Project Board of Control and the Boise-Kuna/New York Irrigation District.

- H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds that the **Boise Comprehensive Plan as adopted by Ada County** is applicable because the subject property is located within Boise's Area of Impact. The Commission finds the application complies with the **Boise Comprehensive Plan as adopted by Ada County**. Regarding the Boise Comprehensive Plan as adopted by Ada County the Commission finds the following:

2.0 PUBLIC FACILITIES, UTILITIES AND SERVICES GOALS, OBJECTIVES, AND POLICIES

2.1 Sewer Facilities

Goal: Provide efficient, cost-effective and environmentally sound public central sewer collection and treatment facilities for all existing and future land uses within the city's area of impact.

Policy 2: Issue building permits only when sewer capacity is available.

Objective 2: Ensure that public central sewage collection and treatment facilities are upgraded and installed as needed to meet usage requirements and maximize cost efficiency, and pursue a single consolidated City-wide system.

Policy 1: Public central sewage treatment and collection systems shall be installed and available for use coincident with new development except as otherwise provided in the Foothills Plan.

The Board finds that development on lot 2 Block 1 will be required to connect to Boise sewer when the property is developed.

2.4 Domestic Water

Goal: Ensure safe and adequate water supply, distribution, storage and treatment facilities to support water demand projected by planned land uses in the Boise Comprehensive Plan.

Objective 1: Ensure that new growth does not exceed adequate water supply and appropriate infrastructure levels. Appropriate water service shall require a minimum of 40 psi and a maximum of 85-90 psi, and fire flows of 1,500 gallons per minute.

Policy 3: Coordinate with private water providers and appropriate governmental agencies prior to approval of new development entitlements.

The Board finds that United Water shall approve connection to the public water system when the property is developed.

2.6 Electricity

Goal: Ensure an adequate, safe, and orderly supply of electrical energy to support existing and future land uses in the city.

Objective: Work with Idaho Power Company to ensure that existing electrical facilities are protected from encroachment, that electrical facilities do not cause negative aesthetic or health impacts on the community, and that adequate electrical facilities are available to meet the needs of future development.

Policy 1: Require that new development be contingent on the ability to be served with adequate electrical facilities and service.

The Board finds that Idaho Power shall approved connection to the public electrical system when the property is developed.

2.10 Fire Protection

Goal: Protect the community through a comprehensive fire and life safety program.

The Board finds that notice of this application was transmitted to Whitney Fire District and that no response was received, signifying that they have no comment.

3.0 ENVIRONMENTAL QUALITY GOALS, OBJECTIVES, AND POLICIES

3.1 Air Quality Goals, Objectives and Policies

Goal: Protect and enhance air quality and minimize health hazards associated with air pollution.

Objective 2: Land use planning, development review and decision-making shall recognize the relationship between land use, transportation and air quality.

Policy 5: Require construction site dust control measures and revegetation for all projects, especially those involving grading work; and minimize sediment and dirt tracked into streets and sidewalks where it can become airborne or be carried into storm drains when wet and create hazards to traffic or pedestrians.

The Board finds that as conditioned the site will comply with dust control measures.

3.2 Water Quality Goals, Objectives and Policies

Goal: Maintain the existing high quality of surface and groundwaters, and ensure an adequate supply of water for the future.

Policy 1: Require all new developments to discharge storm water run-off either to future municipal water treatment facilities or to provide and maintain appropriate on-site treatment.

Policy 7: Promote implementation of Best Management Practices for residential, commercial, industrial and construction activities to protect surface and ground water quality.

The Board finds that the County Engineer will review and approve any stormwater facilities when the property is developed.

6.0 TRANSPORTATION GOALS, OBJECTIVES AND POLICIES

6.1 Streets

Goal: Maintain the function of the street system for current users, emergency response efforts and for use by future generations.

Objective 1: Coordinate with APA, ACHD and ITD to ensure consistency between street improvements and the land-use plans and decisions of Boise City and surrounding city and county governments.

The Board finds that the developer is required to obtain required permits from Ada County Highway District, and to possibly improve portions of abutting roads and/or pay impact fees related to this development's impacts to the public roadway system when the property is developed.

8.0 LAND USE GOALS, OBJECTIVES, AND POLICIES

Goal: Achieve a city that minimizes suburban sprawl, that provides for a diverse mixture of lifestyles and atmospheres and a sense of place that varies throughout the different areas of the city, and that efficiently provides basic services and facilities in close proximity to where people live.

Objective 1: The land-use map and attendant policies shall be the official guide for development of the planning area and shall be implemented through zoning and development review.

Policy 1: The Land Use/Zoning Consistency Matrix shall identify the zoning districts that are permissible within each land-use designation. Consistency with the Land Use/Zoning Consistency Matrix shall be a necessary finding of approval for all zone changes and conditional uses, unless one of the exceptions stated in Policy 1A.5 is granted or one of the forms of flexibility identified in the policies under Objective 2 is implemented.

The Board finds that no rezone is requested as part of this proposal.

2. The Board finds **Section 8-6-5 of the Ada County Code** is applicable because the applicant has applied for a subdivision. The Board finds that the application complies with **Section 8-6-5 of the Ada County Code**. Regarding Section 8-6-5 the Board finds the following:

1. *The design conforms to the standards established in Article A of this chapter;*

The Board finds that the design standards for the subdivision conform to the standards established in Chapter 6, Article A in Title 8 of the Ada County Code as follows:

- Pursuant to **Section 8-6A-1A**, the Board finds that the lots in the subdivision comply with the design standards of the Neighborhood Commercial (C1) District as the commercial lots either meet or exceed the minimum lot size of 6,000 sq. ft. and have a minimum roadway frontage.
- Pursuant to **Section 8-6A-1B**, the Board finds that the property where the subdivision is located has slopes less than 15%.
- Pursuant to **Section 8-6A-1C**, the Board finds that the Natural Features Analysis has not identified any unsuitable conditions on the property.
- Pursuant to **Section 8-6A-1D**, the Board finds that per Ada County Assessor information, all contiguous properties owned by Maverik Inc. have been included in this subdivision.

- Pursuant to **Section 8-6A-1E**, the Board finds that a natural features analysis was reviewed with the development of the proposed southern parcel.
- Pursuant to **Section 8-6A-2A**, the Board finds that the subdivision provides adequate building sites because the lots comply with the dimensional standards for the Neighborhood Commercial (C1) District. The Board finds that based on the preliminary plat that no double fronted lot exist.
- Pursuant to **Section 8-6A-2B**, the Board finds that the subdivision consists of one (1) block and does not exceed six hundred feet (600’).
- Pursuant to **Section 8-6A-2C**, the Board finds that the subdivision is intended to be commercial in nature and that walkways are not necessary for this type of development.
- Pursuant to **Section 8-6A-3A**, the Board finds that the developer has designed and submitted a preliminary plat that provides appropriate size, width, depth, shape, orientation, and that the minimum setbacks for the Neighborhood Commercial (C1) District can be met.
- Pursuant to **Section 8-6A-3B**, the Board finds that the commercial lots within the subdivision comply with the minimum dimensional standards for the Neighborhood Commercial (C1) District as the commercial lots either meet or exceed the minimum lot size and the minimum roadway frontage.
- Pursuant to **Section 8-6A-3C**, the Board finds that side property lines originating at the front of the lot are within twenty (20) degrees of right angles or radial to the street providing access.
- Pursuant to **Section 8-6A-3D**, the Board finds that based on the preliminary plat submitted the subdivision does not contain any through lots.
- Pursuant to **Section 8-6A-3E**, the Board finds that the subdivision does not include a cul-de-sac.
- Pursuant to **Section 8-6A-3F**, the Board finds that the subdivision does not include a knuckle.
- Pursuant to **Section 8-6A-4A**, the Board finds that all the commercial lots in the subdivision have frontage onto a public road.
- Pursuant to **Section 8-6A-4B**, the Board finds that the property does not border a railroad right-of-way or a limited access highway.
- Pursuant to **Section 8-6A-4C**, the Board finds the subdivision is intended to be commercial in nature and will be served by a public road.
- The Board finds that the developer is not proposing the use of any alleyways; therefore **Section 8-6A-5** is not applicable.
- Pursuant to **Section 8-6A-6A**, the Board finds as conditioned that the applicant will be required to provide 10-foot easements for utilities, drainage and irrigation abutting all public rights-of-way and subdivision boundaries.
- Pursuant to **Section 8-6A-6B**, the Board finds that the subdivision is not traversed by a water course (irrigation lateral).
- Pursuant to **Section 8-6A-7**, the Board finds that the subdivision is not traversed by a water course (irrigation lateral).
- The Board finds that the property is not subject to the Flood Hazard Overlay District as the property is in Flood Zone X according to the FEMA flood maps; therefore, **Section 8-6A-8** is not applicable.

2. The design complies with the required improvements established in article B of this chapter;

- Pursuant to **Section 8-6B-1**, the Board finds as conditioned, the applicant and/or owner will be required to complete the improvements within two (2) years of the written decision, if approved.
- Pursuant to **Section 8-6B-2**, the Board finds that the final plat will be required to be signed by the County Surveyor, indicating that it meets the requirements of Idaho State Code 50-1302, 50-1303, 54-1227, and 55-1608.
- Pursuant to **Section 8-6B-3A**, the Board finds as conditioned that the point of connection to the public street shall be approved by the Ada County Highway District.
- Pursuant to **Section 8-6B-3B**, the Board finds that a private road is not proposed for the subdivision.
- Pursuant to **Section 8-6B-3C**, the Board finds that the southern lot is currently served by sewer.
- Pursuant to **Section 8-6B-3D**, the Board finds that as conditioned, the developer will be required to submit drainage plans to the County Engineer for approval when the property is developed.
- The Board finds that the developer is not required to install streetlights due; therefore, **Section 8-6B-3E** is not applicable.
- Pursuant to **Section 8-6B-4**, the Board finds that the developer may submit a surety agreement pursuant to **Chapter 8-4K of the Ada County Code**.

3. *If applicable, the proposed subdivision complies with the standards of an applicable overlay district as set forth in chapter 3 of this title;*

The Board finds that according to the Ada County Zoning Map that the property is located in the southwest overlay district and will comply with the standards.

4. *The design conforms to the topography and natural landscape features and shows consideration for the location and function of land uses and structures to achieve this purpose;*

The Board finds that the subdivision conforms to the topography and natural landscape features and shows consideration for the location and function of land uses and structures.

5. *The development would not cause undue damage, hazard, or nuisance to persons or property in the vicinity;*

The Board finds that there has not been any evidence submitted into the record indicating that the subdivision would cause undue damage, hazard, or nuisance to persons or property in the vicinity.

6. *The internal street system is designed for the efficient and safe flow of vehicles, bicycles and pedestrians without having a disruptive influence upon the activities and functions contained within the proposed subdivision, nor placing an undue burden upon existing transportation and other public services in the surrounding area;*

The Board finds that the developer is not proposing internal streets, since this is a two lot subdivision.

7. *Community facilities such as parks, recreational, and dedicated open space areas are functionally related to all dwelling units and are easily accessible via pedestrian and/or bicycle pathways;*

The Board finds due to the commercial zoning for the subdivision that there isn't a need for community facilities such as parks, recreational, and dedicated open space areas.

8. *The proposal complies with the dimension standards set forth in this title for the applicable zoning district;*

The Board finds that the proposed subdivision complies with the dimension standards for the Neighborhood Commercial (C1) District as the commercial lots exceed the minimum lot size and the minimum roadway frontage.

9. *The overall plan is in conformance with the applicable comprehensive plan(s), future acquisition maps, area of city impact ordinances including applicable subdivision regulations, and other pertinent ordinances; and*

The Board finds as stated in Finding H1 that the overall plan is in conformance with the Boise Comprehensive Plan as adopted by Ada County. The overall plan is also in conformance with the Boise Area of City Impact Agreement as this land use application was forwarded to Boise for comment at least 30 days prior to the public hearing before the Planning and Zoning Commission. The subject property is not contiguous to Boise city limits, and thus a request to annex to Boise is not required.

10. *In addition to the findings required above, the board shall make the following findings for preliminary plats located in a PC base district:*

- a. The preliminary plat is in conformance with the approved planned community implementation plan.*
- b. Urban public services and urban public facilities are adequately provided according to the standards set forth in chapter 8 of this title, including the transition plan, if any; and*
- c. Sufficient funds will be available to construct the urban public facilities and to provide urban public services.*

The Board finds the preliminary plat is not located in a PC base district.

3. The Board finds **Section 9-3-3** of the Ada County Code is applicable because the proposed subdivision is located within Boise's Area of City Impact. The Board finds that the application complies with **Section 9-3-3** of the Ada County Code. Regarding Section 9-3-3 the Board finds the following:

A. The Boise comprehensive plan, adopted by Boise on January 21, 1997 and as amended on December 22, 1998, February 19, 2002, July 24, 2002, January 7, 2003 by resolution 17367 with the accompanying map fully incorporated by reference, February 11, 2003, including Boise City comprehensive park and recreation system plan as amended on October 5, 2004 by resolution 18344 and amended on November 15, 2005 by resolution 18866 shall apply within the unincorporated part of the Boise City area of city impact.

The Board finds as evidenced in the record that the subject property is located within Boise's Area of City Impact and as such the Boise Comprehensive Plan as adopted by Ada County Code is the applicable comprehensive plan. This application has been evaluated to the adopted comprehensive plan as evidenced in Finding H1.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 201301823 S complies with the Boise Comprehensive Plan as adopted by Ada County.
2. The Board concludes that Project No. 201301823 S complies with Section 8-6-5 of the Ada County Code.
3. The Board concludes that Project No. 201301823 S complies with Section 9-3-3 of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Board approves Project #201301823 S, subject to the Conditions of Approval attached as Exhibit A and the Preliminary Plat Drawing received November 25, 2013.

DATED this _____ day of _____, 2014.

By: _____
David L. Case, Commissioner

By: _____
Jim Tibbs, Commissioner

By: _____
Rick Yzaguirre, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS (IN ORDER) THAT THE APPLICANT AND/OR OWNER MUST COMPLETE BEFORE THE APPROVAL OF FILLE #201301823 S-PR WILL BE CONSIDERED FINAL. PLEASE NOTE THAT YOU HAVE UP TO TWO YEARS OF THE WRITTEN DECISION TO COMPLETE THESE TASKS AND SUBMIT A FINAL PLAT UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS.

1. The applicant and/or owner shall obtain written approval of the plat from the agencies noted below. The approval may be either on agency letterhead referring to the approved use or may be written/stamped upon a copy of the approved plat. All site improvements are prohibited prior to approval of these agencies.
 - a. The New York Irrigation District and/or the Boise Project Board of Control must approve all modifications to the existing irrigation system.
 - b. The County Engineer must approve a surface drainage run-off plan. The plan shall contain all proposed site grading. Please contact the County Engineer at 287-7900 for fee and application information. See Section 8-4A-11 of the Ada County Code for drainage plan standards.
2. The final plat shall include a ten (10) foot easement depicted for utilities, drainage, and irrigation abutting all public right-of-ways and subdivision boundaries.
3. The final plat shall meet the final plat specifications listed in Section 8-6-4.3 of the Ada County Code.
4. No construction, grading, filling, clearing, or excavation of any kind shall be initiated until the applicant has received approval of a surface runoff drainage design plan from the Ada County Engineer.
5. Any adjustments to the preliminary plat must conform to the design standards in Title 8, Chapter 6, Article A of the Ada County Code.
6. The final plat shall be in substantial conformance with the approved preliminary plat.
7. Prior to approval by the Board of County Commissioners, the plat shall contain the following certificates and/or endorsements:
 - certificate of the owner(s),
 - certificate of the plat surveyor,
 - certificate of the County Surveyor;
 - endorsement of the Central District Health Department,
 - approval and acceptance of the Ada County Highway District.
8. The following statements shall appear on the face of the final plat:

EXHIBIT A

- a This development recognizes Idaho Code §22-4503, Right to Farm Act, which states: “No agricultural operation or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began; provided, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any agricultural operation or appurtenance to it.”
 - b Any resubdivision of this plat shall comply with the applicable regulations in effect at the time of the resubdivision.
9. The Board of County Commissioners must approve the final plat within 24 months of the Board of County Commissioner’s approval of the preliminary plat. For subdivisions where the Board approved a phasing plan, the Board shall approve the phases in successive one-year intervals as required in Section 8-6-3 of the Ada County Code.
 10. The owner shall complete all required site improvements in accordance with Section 8-6B-1 of the Ada County Code.
 11. No building permits will be issued until the final plat is recorded through the County Recorder’s Office and parcel numbers have been issued by the County Assessor’s Office.
 12. Any development on Lot 2 Block 1 will require a Master Site Plan and/or a Conditional Use.
 13. Compliance with Section 31-3805 of the Idaho Code pertaining to irrigation waters is required. Irrigation/drainage waters shall not be impeded by any construction on site.
 14. Prior to Board approval of the final plat, the Ada County Engineer shall approve all drainage improvements and site grading shall be completed. The County Engineer shall inspect and approve all drainage improvements, except where bonding is provided. As-built drawings, acceptable to the County Engineer in form and substance, shall be permitted prior to final inspection and approval of the drainage improvements.
 15. Prior to final plat approval by the Board, all required improvements shall be completed. In lieu of completing the required improvements, the applicant and/or owner may deposit a surety with the Director and sign a surety agreement in accordance with the regulations for surety agreements set forth in Article 8-4K of the Ada County Code. All surety and surety agreements shall comply with Article 8-4K of the Ada County Code.
 16. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, and utilities.