



**Lewiston Planning & Zoning Commission
REGULAR MEETING AGENDA
October 23, 2024 - 5:30 PM
Bell Building – Second Floor Conference Room – 215 D Street
Lewiston, Idaho 83501**

Seating will be available on a first-come, first-served basis.

I. CALL TO ORDER

II. CITIZENS COMMENTS

An opportunity for citizens to address the Commission with comments and/or questions about Planning and Zoning Commission-related matters that are not a public hearing action item on this agenda. Citizens are asked to limit their time to three (3) minutes each.

III. ACTIVE AGENDA

A. APPROVAL OF OCTOBER 09, 2024 MEETING MINUTES (ACTION ITEM)

- B. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS FOR ZONE CHANGE APPLICATION ZNC24-4 BY CHRIS CLARK (ACTION ITEM):** An application to rezone the east fifty feet (approximately) of 132 Thain Road from Community Commercial, C-3, to Medium Density Residential, R-3.
- Action Item ()

- C. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS FOR VARIANCE APPLICATION VAR24-2 BY DK HOLDINGS LLC (ACTION ITEM):** The applicant requests variance approval to waive the following Zoning Code small lot development standard of Lewiston City Code Section 37-33(d)(5): “Except on a flag lot, for a home with an attached garage, the garage wall with the garage door shall be recessed at least four (4) feet from the adjoining habitable space wall of the home.” The applicant proposes, instead, that the garage wall with the garage door project twenty-four feet in front of the adjoining habitable space wall of the home. This is proposed for all lots and homes within the Canyon Crest South Addition to the City of Lewiston- a subdivision of 53 lots on 9.4 acres located at the northeast corner of 18th Street and Airway Avenue. - Action Item ()

- D. APPROVAL OF THE REASONED STATEMENT AFFIRMING THE COMMISSION’S DECISION AFTER RECONSIDERATION OF CONDITIONAL USE PERMIT CUP24-3 FOR A TRANSITIONAL HOUSING VILLAGE (ACTION ITEM):** The applicant Michelle King requests conditional use permit approval to establish a transitional housing village for young adults needing housing on approximately 0.5 acres in the Light Industrial, M-1, Zoning District at 2207 East Main Street and the two adjacent tax parcels to the east and north. This application includes a request to allow some of the required parking to back out onto 22nd Street. - Action Item ()

IV. STAFF-COMMISSION COMMUNICATIONS

A. QUERY OF COMMISSIONERS TO ATTEND THE NOVEMBER 13, 2024 MEETING
(NO ITEMS)

V. ADJOURNMENT - Action Item

The City of Lewiston is committed to providing access and reasonable accommodation in its services, programs, and activities and encourages qualified persons with disabilities to participate. If you anticipate needing any type of accommodation or have questions about the physical access provided at this meeting, please contact Nikki Province, ADA Coordinator, at least forty-eight (48) hours in advance of the meeting at 208-746-3671 x 6211.

October 9, 2024

The LEWISTON PLANNING AND ZONING COMMISSION met in the Community Development Department Second Floor Conference Room at 215 "D" Street. Chair Ball called the meeting to order at 5:30 p.m.

I. CALL TO ORDER

COMMISSIONERS PRESENT: Cynthia Ball, Chair; Gabriel Iacoboni, Vice Chair; Kathy Branson; Shaunita Cable; Maureen Anderson; Emily Wolf; Kevin Kelly

COMMISSIONER EXCUSED:

STAFF MEMBERS PRESENT: Joel Plaskon, City Planner; Dawn Ortiz, Community Development Office Supervisor; Pat Severance, Engineering Development Supervisor

II. CITIZEN COMMENTS

None

III. APPROVAL OF SEPTEMBER 25, 2024 MEETING MINUTES (ACTION ITEM)

Commissioner Branson and Vice Chair Iacoboni moved and seconded, respectively, approval of the September 25, 2024 meeting minutes with corrections. The motion carried 6-0-1 with Commissioner Wolf abstaining.

IV. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS ON CONDITIONAL USE PERMIT APPLICATION CUP24-4 BY SARA BENNETT OF RIVERSIDE RECOVERY (ACTION ITEM):

Commissioners Anderson and Branson moved and seconded, respectively, to approve the reasoned statement for CUP24-4 as written. The motion carried 6-0-1 with Commissioner Kelly abstaining.

V. CONTINUATION OF PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR ZONE CHANGE APPLICATION ZNC24-4 BY CHRIS CLARK (ACTION ITEM):

Chair Ball explained the continuation of the public hearing process, and asked for a staff presentation.

Staff Plaskon provide verbal summary of what was discussed at previous Planning and Zoning Commission meeting.

Chair Ball asked staff if there are already split zone areas.

Staff Plaskon stated that yes there are and provided examples.

Commissioner Anderson asked if there are current incidents were the building has been split by a zone.

Staff Plaskon stated he was not sure if there is and that any concerns should be judged against the relevant criteria for the reasoned statement.

Chair Ball asked what the rear yard setback was for structure.

Staff Plaskon stated it was 11.5 feet and if this rezone was approved this part of the building would become a nonconforming in terms of the setbacks for the side and rear yard standards.

Chair Ball stated there was discussion at last meeting on if there would be room for back patio when it looked like the exiting building didn't meet setbacks.

Staff Plaskon stated this CUP proposal is not a development proposal but a rezone. Staff would review the building use change so there is no additional nonconformity created above and beyond the existing conditions. So they would not be able to get any closer to the property line that already is, so the only patio that would be allowed would be flat work.

Commissioner Anderson expressed her concern for the lot size not meeting R3 standards.

Staff Plaskon provided verbal confirmation on how this request would fit into the Comprehensive Plan.

Chari Ball discussed that it might be better to rezone to a C4 or a C5 and keep the lot commercial.

Staff Plaskon stated that would create an island of that zone or an illegal spot zone. It is okay to be an R3 because it already abuts an existing R3 zone. Staff asked the Commission to take concerns back to the criteria.

There being no further questions for staff, Chair Ball asked the Applicant for testimony.

Applicant Chris Clark, Pullman Wa stated the valley doesn't have a need for more office space, but there is a need for residential. He is only asking for a change of use not to change setbacks. The structure is already a nonconforming structure to today's standards as there is not enough parking.

There being no questions for the applicant, Chair Ball asked for public comment.

Dawn Ortiz, Community Development Office Supervisor read in a public comment submitted via email.

Noah Prescott "I hope this is the right place to send this. I am in support of ZNC24-4, performing the zone change from C3 Commercial to R3 Residential. It frustrated me that the Planning and Zoning Commission emphatically approved a Residential to Commercial rezone earlier in the meeting on 9/25/2024, but then began bike shedding small issues when this proposal originally came up. This kind of development is exactly the "slippery slope" we need in order to make Lewiston a sustainable city. As the Developer, Chris, said in the original meeting, mixed use development is all around us, but it should be in a lot more locations. His new proposal is exactly in the spirit of what the new Project 2044 Zoning Code is supposed to be, and I'm glad someone has begun to take the first step. Many of the housing developments the Commission has approved lately have been large-scale housing with multiple bedrooms, but what we really need in this valley are small homes and apartments for young people without kids or older people who don't need more than a bedroom or two. These proposed apartments seem to be just that, and rejecting this proposal flies in the face of the new Zoning Regulations that were just approved. Please approve this change, so that Lewiston can take a positive step forward into the future."

There being no further public comment, Chair Ball closed the public hearing

After discussion, Commissioner Kelly and Vice Chair Iacoboni moved and seconded, respectively, to direct staff to draft a written statement approving ZNC24-4. Motion passed 6-1 with Commissioner Cable opposing.

VI. PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR VARIANCE APPLICATION VAR24-2 BY DK HOLDING LLC: (ACTION ITEM)

Chair Ball explained the public hearing process, opened the public hearing and asked for a staff presentation.

Staff Plaskon provided a verbal summary of the staff report with maps and photos so the commission could get geographically familiar with the area.

There being no questions for staff, Chair Ball asked the Applicant for testimony.

Applicant Dan Yonge, Lewiston explained the location of the mentioned retaining wall and that the lot has a four foot elevation change. Due this elevation change it would cause the driveway to have such a different elevation. Trying to build with the existing street causes problems also due to the slope. It is hard to see the slope in pictures and the larger garage would have a better curb appeal and hopefully influence owners to actually park in their garage.

Staff Plaskon reminded the commission that subdivision plat approval does not approve building footprints. He also stated that even if the plat implied approval of the building footprints shown, the plat did not identify which portion of the structure in the building footprint is garage vs livable space and that the plat has a note on it that says that the development of the lots would be built to the small lot development standards of the zoning code.

Pat Severance, Engineering Development Supervisor was available for questions.

Vice Chair Iacoboni asked staff Severance if there are alternatives or is this variance application the actual minimum variance needed, in your opinion.

Staff Severance stated the applicant did propose an alternative, but he is not sure how the applicant came to that. He doesn't understand why the 2% cross slope would cause the garages to be next to each other or why they couldn't stay separate. To give the commissioners an idea of what a 2% cross slope is, that is the same as an Americans with Disabilities Act (ADA) compliant slope. There are not many 2% cross slopes in Lewiston. Most are steeper.

Commissioner Anderson pointed out that the side to side elevation is only two foot.

Staff Severance stated that was correct, the four foot slope is from corner of lot to other corner of lot diagonally.

Applicant Yonge stated he is applying for all lots to have this variance because he understands the housing shortage and he has built these houses before so he knows they can be affordable. Having the neighborhood looking consistent.

There being no questions for the applicant and no public comment, Chair Ball closed the public hearing.

After discussion and deliberation on the required relevant criteria and standards, Commissioner Anderson and Vice Chair Iacoboni moved and seconded, respectively, to direct staff to draft a written statement denying VAR24-2. Motion passed 7-0.

VII. STAFF-COMMISSION COMMUNICATIONS

Staff Plaskon stated work has begun on creating a work plan to implement the Comprehensive Plant and that should come in front of the commission soon in regards to rezones and code amendments.

Chair Ball asked if anyone was addressing boxcar storage in the community.

Staff Plaskon stated he didn't know, but that shipping containers used as buildings will be in front of City Council at their November work session.

A. Query of Commissioners for the October 9, 2024 meeting

All present Commissioners besides Commissioners Cable and Kelly, shall be in attendance at the October 23, 2024 meeting.

VIII. ADJOURN

There being no further business, Commissioner Kelly and Vice Chair Iacoboni moved and seconded, respectively, to adjourn. The motion carried 7-0 and the Planning and Zoning Commission meeting adjourned at approximately 7:58 p.m.

RESPECTFULLY SUBMITTED,

Dawn Ortiz,
Recording Secretary

Chairperson or Acting Chairperson
Planning and Zoning Commission

Approved this _____ day of _____, 2024.

**CITY OF LEWISTON PLANNING AND ZONING COMMISSION
REASONED STATEMENT OF RELEVANT CRITERIA AND
STANDARDS FOR GRANTING OR DENIAL OF
ZONING DISTRICT BOUNDARY CHANGE/REZONE**

This document shall serve as memorialization of the rationale for the granting or denial of a zoning district boundary change/rezone, which shall be based upon relevant criteria and standards, including the Lewiston Comprehensive Plan, Lewiston City Code, and Idaho Code. *See* I.C. § 67-6535.

I. APPLICATION NUMBER:
ZNC24-4

II. APPLICANT'S NAME AND ADDRESS:
CLC Sales, Inc.
Chris Clark
1610 Wheatland Drive
Pullman, WA 99163

III. IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:
Approximately the easterly forty-three feet of 132 Thain Road

IV. DATES OF PUBLIC HEARING:
September 25, 2024 and October 9, 2024

V. NAME OF HEARING BODY:
Lewiston Planning and Zoning Commission

VI. NATURE OF APPLICATION:
Rezone subject property from Community Commercial, C-3, Zone to Medium Density Residential, R-3, Zone.

VII. DECISION:
The Lewiston Planning and Zoning Commission recommends **APPROVAL** of ZNC24-4 to the Lewiston City Council.

VIII. RELEVANT CONTESTED FACTS RELIED UPON:

The relevant contested facts relied upon are:

There was discussion among City staff and the Commission as to whether the proposed rezone was required to comply with Lewiston City Code § 37-10 regarding zone boundaries and whether the proposed rezone needed to be in compliance with the development standards of the R-3 zoning district. The public hearing was continued to October 9, 2024, to allow Joel Plaskon, City Planner, to provide testimony concerning these matters.

During the continued public hearing on October 9, 2024, Mr. Plaskon testified and answered questions from the Commissioners concerning whether the City has ever considered an application to split zone a building and parcel of property in a manner similar to that proposed by the Applicant. Mr. Plaskon indicated that he was not aware of any such private applications, but that the application only had to be considered in accordance with Lewiston City Code § 37-180.1 (Relevant Criteria and Standards When Considering Zone Changes). He further emphasized that the Commissioners should focus their attention on these particular requirements when evaluating the application before them.

IX. RELEVANT CRITERIA AND STANDARDS:

The following relevant criteria, standards, facts, and considerations are hereby declared as reasons for the decision on this zoning district boundary change/rezone:

1. The proposed rezone is in general conformance with the Lewiston Comprehensive Plan. Applicable commentary:

The subject property is designated Neighborhood Commercial (NC) on the Comprehensive Plan Future Land Use Map. The NC area provides low to mid intensity commercial services primarily for surrounding residents. The subject property is in a mixed-use area consisting of a variety of commercial and residential uses. The subject property fronts Thain Road, a minor arterial street and a transit route, but has no direct access to Thain Road. It has two driveways, one on 8th Street C, which is a local residential street and another on Vista Avenue, which is a one-way local residential street that travels eastbound.

The Applicant desires to convert the easterly forty-five feet (approximately) of the existing office and retail building on the subject property to two residential apartment units. Such units would not be located above or behind commercial use(s) and would displace the property's Thain Road commercial street frontage, but there would still be commercial street frontages on 8th Street C and Vista Avenue. The Applicant indicated that the proposed commercial sites displaced are currently undeveloped.

The subject property's current C-3 zoning does not permit residential uses. However, there is adjacent R-3 zoned properties abutting the subject property on the south side along this easterly portion of the subject property. The Applicant intends for the remainder and majority of the

subject property to remain in the C-3 zone and used for commercial office space. City staff testified that the area and configuration of the subject property and the portion to be rezoned does not allow for subdivision of the proposed R-3 zone property, as it would not meet the minimum lot standards for subdivision or development in the Lewiston zoning code.

Although the NC designation is primarily intended for commercial uses, apartments are listed as a supporting use for this designation. A majority of the Commissioners found that the Applicant's request was in general conformance with the following standards of the Comprehensive Plan:

Suggested Residential Density Range 8+ DU/acre can be considered with the following essential considerations:

- Location: Commercial uses remain along street frontage. Residential uses are located above or behind commercial uses when present.
 - City staff testified that the proposed use of the subject property would keep commercial uses long the street frontage, but that the residential use did not comply with this standard because the residential use would be neither above or behind the commercial use, but alongside such use. Commissioners Cable and Anderson felt that by not having the residential use above or behind the commercial portion of the subject property, it was not in compliance with the Comprehensive Plan. However, the remaining Commissioners agreed that the City was in need of more housing in general, and that the Applicant had submitted a proposal that would provide a different variety of housing than seen elsewhere in the City.
- Intensity: Provides transition in intensity from adjacent uses/zones and provides an appropriate transition in building use, type, and scale from surrounding uses.
 - The Commission found, by majority, that there is sufficient grounds to justify extending the R-3 zone to this portion of the subject property because it directly abuts the R-3 zoning district to the south. While the Commissioners did not expressly approve of the idea of splitting the zoning designation of a building or lot, they found sufficient justification from the Applicant's testimony concerning how the proposed split zone will operate.
- Access: Located on a collector or arterial roadway with adequate access for the proposed use.
 - The Commission noted that the subject property does not open directly to Thain Road, but has driveways along 8th Street C and Vista Avenue. This is helpful for the subject property since Thain Road is a very busy arterial roadway, which can present traffic hazards. Despite this, it was noted by City staff and the Commissioners that Vista Avenue is a one-way roadway.

- Infrastructure: The existing or planned infrastructure is adequate to meet the needs of the proposed use.
 - Information was presented to the Commissioners that the current number of parking stalls would be sufficient for the proposed project and bring the subject property into better compliance with the zoning code's parking requirements. Additionally, there was no testimony received that City services or infrastructure would be inadequate for the proposed rezone.
- Compatibility: The presence of residential would not possibly hinder future commercial uses on adjacent commercial areas. The proposed location is not within the proximity of industrial uses in areas identified for additional industrial uses in the future land use map.
 - The Applicant testified that his intended apartment residents would be "young urban professionals," and the type of people who are not opposed to be located next to commercial office spaces. He indicated his intended residents would not want exterior maintenance, but would want a clean nice place with a high level of finishes. He further testified that he has tried to utilize the property for commercial leases, but stated there is an overabundance of commercial office space in the Lewiston area that makes this difficult.

The Commissioners found by majority that the proposed rezone is consistent with the following goals and/or objectives of the Comprehensive Plan:

LU.1.3 Balance land uses. Establish land use patterns that accommodates various land uses in proportion to the needs of the community.

- The Commissioners noted that while the proposed rezone is not in compliance with requirement that apartments be located above or behind commercial uses, they are likely to encounter more requests that are for mixed commercial/residential uses in ways not already envisioned by the zoning code.

GOAL LU.2 PROVIDE HOUSING CHOICES THROUGHOUT LEWISTON.

LU.2.1 Diversify possible housing options. Ensure that a variety of types, scale and density-appropriate housing can be constructed throughout Lewiston, promoting neighborhoods that cater to residents of all incomes, ages, family structures and cultures.

- The Commissioners discussed that under this provision, the Applicant provided sufficient testimony that there is a need for this type of housing in the Lewiston area.

ED.2.3.2 Attract an increased variety of housing types to accommodate new workers.

- The Commissioners noted that while there might be better zoning designations that allow by right mixed uses of this type, they felt that generally, the Applicant provided sufficient testimony that the proposed

use of the property would provide diverse options for individuals to choose a different type of housing option than is traditionally available.

ED.4.3 Re-envision underutilized retail spaces. Accommodate a wider range of uses and activities to better meet changing market demands.

- The Applicant provided testimony that there is an overabundance of commercial spaces in the Lewiston area, so much so that he has not been able to lease out the commercial space he proposes to rezone. He also testified about the need to provide new ideas and options for residential housing options because developable land is hard to find.

ED.4.3.3 Evaluate the commercial zoning districts in the zoning code zoning code to ensure relevant commercial and mixed uses are allowed where appropriate.

- While Commissioners Cable and Anderson felt that the extension of the R-3 zoning district for the sake of permitting mixed uses was not appropriate in this context because the residential property would be next to the commercial property, it was noted by other Commissioners that the proposed rezone otherwise met with the Comprehensive Plan's goals to incorporate mixed uses where appropriate.

The Commissioners were split with a 5-2 finding that the proposed rezone is in general compliance with the Comprehensive Plan. There was general discussion that the subject property could be subject to a different zoning designation that incorporated elements from both the C-3 and R-3 zoning districts, but no such zone exists. The Commissioners found by majority that despite objections to the residential portion of the proposed mixed use being next to the commercial uses, the creative way to incorporate more diverse housing options within in the City was generally met by the Applicant's testimony in support of the proposed rezone.

2. The subject property is at least as well suited or is better suited for the proposed zoning district than the existing zoning district. Applicable commentary:

The subject property's current C-3 zoning does not permit residential uses. However, there is adjacent R-3 zoned properties abutting the subject property on the south side along this easterly portion. The Applicant intends for the remainder and majority of the subject property to remain in the C-3 zone. The commercial building on the subject property is approximately 7,000 square feet, used primarily for office spaces. The site plan for the 2001 building permit and an old GIS aerial photograph show twenty parking spaces with only one driveway leading onto 8th Street C. Apparently, two parking spaces were removed after the building was built to create a second driveway approach on Vista Avenue. Since the time the building was constructed, the parking requirements of the zoning code has increased. Under the current zoning code, 28 parking spaces would be required. There are currently 18 parking spaces on the site. Conversion of the easterly portion of the subject property into two apartments would decrease the minimum number of parking spaces and bring the subject property closer into compliance.

The City Staff Report, incorporated herein by reference, provides that the subject property is in conformance with the requirements of the C-3 zoning designation as-is. However, the

proposed R-3 zoning designation for the easterly 45 feet of the property is less clearly compliant. City staff testified that while the Applicant proposes to turn the two available commercial spaces into apartments, he could technically use it for any other approved use in the R-3 zoning district. The City Staff Report also noted that there is a shortage of housing in Lewiston, which may provide justification for approval of this rezoning application, despite that the intended housing would not be located behind or above the commercial use or accessed from a collector or arterial street (even though it fronts one).

The Commissioners noted that rezoning the subject property from C-3 to R-3 improves the off-street parking situation because there is currently an insufficient amount of parking stalls for the existing office and retail building. The two apartments expected to result from this rezone require less off-street parking than the current commercial use. The subject property is located adjacent to existing apartments and R-3 zoning to the south and apartments are identified in the Comprehensive Plan as a use supportive of the applicable NC Future Land Use Designation. The Commissioners also noted that there is a known housing shortage in Lewiston and a shortage of apartment housing.

The Commissioners were split with a 5-2 finding that the subject property is at least well suited for the proposed R-3 zoning designation because there is property adjacent that would create an extension of the R-3 zone. However, Commissioners Cable and Ball noted that this is not a smooth transition since there are commercial uses on both sides of the proposed apartments. There was general discussion among the Commissioners concerning the transition from residential to commercial uses is not smooth or fluid, but there was general agreement that the need for suitable and diverse housing options was a greater need, if the Applicant develops the property the manner proposed.

3. The proposed rezone **does not** present foreseen, immitigable impacts of incompatible uses or development being located in the same vicinity. Applicable commentary:

The subject property is in a mixed use area consisting of a variety of commercial and residential uses. The subject property is developed with an office building and associated parking lot. Surrounding properties are multi-family residential to the south, a gas station to the north across Vista Avenue, a variety of retail businesses to the east, and single family residential to the west across 8th Street C. The subject property's designation as NC in the Comprehensive Plan envisions low to mid intensity commercial services, while providing a transition from more intense commercial or industrial uses to less intense and small scale residential areas. Although the NC designation is primarily intended for commercial uses, apartments are listed as a supporting use for this future land use designation.

The Commission by a 4-3 majority found that because the subject property is north of existing apartments (the two properties back up to one another) and R-3 zoning district, there is a transition between the R-3 uses and surrounding uses that justify extending the R-3 to this portion of the subject property. However, those Commissioners who determined that the proposed rezone would present foreseen immitigable impacts of incompatible uses or development noted that the two properties actually back up to one another, meaning they would

still represent separate residential areas, leaving the subject property's proposed apartments to be sandwiched between commercial uses on both sides.

Despite this, the Commission, by majority, found that residential apartments and commercial office and retail uses are not inherently, nor in this case, in conflict or incompatible. The Commissioners noted that they are likely to see more requests for mixed uses to incorporate more residential uses on commercial properties, but that the Comprehensive Plan's objectives to diversity and accommodate various land uses is supportive of this proposed rezone. Additionally, the two apartments expected as a result of this rezone will reduce the insufficiency of the off-street parking currently existing on the subject property by reducing the overall amount of traffic that would be expected of the commercial versus residential uses.

4. The effects of the proposed rezone **are not** anticipated to place undue burden upon delivery of services provided by any political subdivision within the planning jurisdiction, including school districts. Applicable commentary:

Public hearing notice of this rezone application was sent to all political subdivisions in the jurisdiction, and no objections were received claiming the rezone would present undue burden on the delivery of their services. Comments were received from the Engineering Division of the Public Works Department, which did not object to the proposed rezone. It was noted in the City Staff Report that the Fire Department did not comment, but that if the rezone application were approved, the Applicant would be required to meet Fire Department requirements for the building permit to convert the office space in the existing building to apartments.

5. The size, type, intensity, and density of development expected to occur on the subject property as a result of this rezoning **is** suitable for the area and **will not** unduly burden the neighborhood, public infrastructure, or environmental resources. Applicable commentary:

The subject property is in a mixed use area consisting of a variety of commercial and residential uses. The subject property fronts Thain Road, but has no direct access to Thain Road. The subject property has two driveways, one on 8th Street C and another on Vista Avenue, a one-way street that heads eastbound. Thain Road has curb gutter and sidewalk. 8th Street C has curb, gutter and sidewalk along the subject property but not other properties on the block. Vista Avenue has some curb and gutter, but no sidewalk.

There was discussion among the Commissioners and City staff about the density requirements of the R-3 zone, but the subject property's density was noted as being below that requirement.

The Commissioners indicated that there is likely to be more requests to extend residential zoning options into commercial areas, but that consideration should be given to those areas where residential zones already abut the commercial zone, when considering requests for mixed uses. Some Commissioners noted a preference to not to downzone commercially zoned properties in favor of residential zoning, but to create a zone that can incorporate the needs of both the C-3 and R-3 zones.

Commissioner Anderson also pointed out that because Vista Avenue is one-way, traffic tends to cut across the gas station, which is across the street from the subject property, to circumvent this. She noted that while the proposed rezone is not likely to increase traffic to and from the subject property, more use of the subject property could create more potential for accidents to occur because of drivers trying to avoid using Vista Avenue as a one-way street.

Commissioner Wolf noted that the two apartments expected to result from this this rezone will meet the goals and objectives to increase housing quality and production, as well as diversifying housing options on the subject property in a manner that is similar to and not incompatible with that of the surrounding residential properties. There was no testimony received or evidence submitted to indicate the subject property will not be adequately served by public streets, sanitary sewer, water, and storm sewer or that it will adversely affect any environmental resources.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant **could not** take actions to obtain approval, the explanation is: Not applicable.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant **could** take actions to obtain approval, such actions might include: Not applicable.

NOTICE TO APPLICANT AND AFFECTED PERSONS: The Planning and Zoning Commission's recommendation to the City Council is not a final decision, and thus, shall not be subject to reconsideration or appeal.

By: _____
Signature of Planning and Zoning Commission Chair or Vice Chair or Acting Chair

Printed: _____

Date of Signature: _____

ATTEST: _____
Dawn Ortiz, Community Development Office Supervisor

**CITY OF LEWISTON PLANNING AND ZONING COMMISSION
REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR GRANTING OR DENIAL OF VARIANCE**

This document shall serve as memorialization of the rationale for the granting or denial of a variance, which shall be based upon relevant criteria and standards, including the Lewiston Comprehensive Plan, Lewiston City Code, and Idaho Code. See I.C. § 67-6535.

I. APPLICATION NUMBER:
VAR24-2

II. APPLICANT'S NAME AND ADDRESS:
DK Holdings, LLC
Dan Yonge
626 Thain Road, Ste. A
Lewiston, ID 83501

III. IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:
Canyon Crest South Addition to the City of Lewiston, approximately 9.4 acres located at the northeast corner of the intersection of 18th Street and Airway Avenue. The proposed variance is intended for all lots and homes within the Canyon Crest South Addition subject to the small lot development standard found in Lewiston City Code § 37-33(d)(5).

IV. DATE OF PUBLIC HEARING:
October 9, 2024

V. NAME OF HEARING BODY:
Lewiston Planning and Zoning Commission

VI. NATURE OF APPLICATION:
The Applicant requests, due to the topographic condition of the subject property, variance approval to waive Lewiston City Code § 37-33(d)(5), which requires that for homes with an attached garage in a small lot or zero lot line development the garage door wall be recessed at least four feet (4') from the habitable space wall of the home (referenced as "the zoning code requirement"). Instead, Applicant proposes that said garages project twenty-four feet (24') in front of the homes. There is a twenty-eight-foot (28') difference between the Applicant's proposal and the zoning code requirement. This application is to be applied to thirty-eight (38) of the fifty-three (53) lots in the subdivision.

VII. DECISION:
The Lewiston Planning and Zoning Commission **DENIES VAR24-2.**

VIII.

**REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR VAR24-2**

CONDITIONS OF APPROVAL:

Pursuant to Lewiston City Code § 37-173, the Planning and Zoning Commission may attach conditions upon granting a variance. This variance is subject to the following conditions: None.

IX. RELEVANT CONTESTED FACTS RELIED UPON:

The relevant contested facts relied upon are:

The Applicant has indicated that the unique topography of the Canyon Crest South Addition presents undue hardships because there is approximately nineteen feet (19') of slope from the northwest to the southeast corners of the subject property. His application materials and testimony state that the starting elevation in the northwest corner of the subject property is a one thousand four hundred fifty feet (1450') above sea level ascending to one thousand four hundred sixty-nine feet (1469') above sea level in the southeastern corner. The Applicant further states that each proposed unit will be approximately 100 feet from "end to end" regardless of garage orientation and that a step down of approximately four feet (4') in the driveways or the foundations between the units may be required as a result. The Applicant further provides that the design requirements in the zoning code creates a "barracks style" aesthetic that he does not think is appealing.

The Engineering Division of the Public Works Department provided comment that "site development finished grade contours show a two percent (2%) average cross slope across the site east to west. The individual lots are approximately fifty-five feet (55') wide and one hundred-ten feet (110') in length for two lots." Pat Severance, Development Supervisor with the Engineering Division of the Public Works Department, testified that the Applicant's measurement of a four foot (4') cross slop is measured diagonally across a lot, not east to west across the lot. He could not identify any particular safety hazard that would be created from a 2% driveway cross slope or reasoning that a step in elevation between lots would be required.

City staff also question whether or not the cross slope of the subject property is a condition that does not generally apply to other properties in the same zone or vicinity and poses an undue hardship on the Applicant. The Applicant stated if this particular zoning standard is not waived, it will create a pedestrian and vehicular safety hazard between the two units for parking and walking. The Applicant further explained that his desired development design is to have the two driveways of the attached townhomes (two dwelling units attached to each other and sharing a common wall) adjacent to each other (separated), which will allow for a vertical elevation difference between the driveways.

City staff also noted that the Applicant has development design options to mitigate the 2% cross slope, including separating the driveways or installing a wall or guardrail where the two driveways meet each other. City staff also noted that, for reference as to whether or not a 2% cross slope is steep or hazardous, a 2% cross slope is compliant with the Americans with Disabilities Act. There are other properties in the same zone and vicinity that have similar and higher slope percentages.

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X. RELEVANT CRITERIA AND STANDARDS:

The following relevant criteria, standards, facts, and considerations are hereby declared as reasons for the decision on this variance:

1. Conditions apply to the property that **do** apply generally to other properties in the same zone or vicinity and which **do not** pose an undue hardship because of characteristics of the site as a result of lot size, or shape, topography, or other special features. Applicable commentary:

See Relevant Contested Facts for recitation of relevant testimony concerning the condition of the property.

The Commissioners stated their belief that the undue hardship alleged is safety due to the topography of the subject property. However, Commissioner Cable pointed out that per the City Staff Report, the driveway requirements are per lot, but Commissioner Ball noted in this instance the driveway required (per the Applicant's designs) would be across two adjoining lots. City staff noted that the subject property is the only property in the vicinity zoned R-3, but that other properties have similar topography as the subject property. City staff testified that the subject property is relatively flat due to the Applicant's site development. The applicable 2% cross slope is a condition that is generally found in other properties in the same zone or vicinity and does not pose an undue hardship, especially considering that the subject property's topography is not unique. Commissioner Anderson stated she felt there were properties that had worse topographical issues, but they were able to otherwise develop the property.

The Applicant can redesign his project, but stated doing so would increase his costs. Therefore, the Commission found that while the Applicant has "worked the kinks out" of this design and its more cost efficient, the Commissioners found the Applicant does have development design options that he is choosing not to implement that would allow him to meet the zoning code requirement and alleviate the need for the variance application. The Commissioners agreed that if approved, the Applicant would be receiving a special privilege that others would not be entitled to (i.e., changing the driveway design requirements).

2. The variance **is** necessary as a result of actions of the Applicant, **will** grant the Applicant a special privilege, and **is not** necessary for the preservation of a property right possessed by owners of other property in the same zone and vicinity. Applicable commentary:

The Applicant testified that he was not responsible for the requested variance because the Commission and the City Council approved his plat maps, which included a footprint of the properties. Therefore, he alleges these governing bodies also approved his preferred layout, and that it is an undue hardship for him to redesign the preferred layouts in accordance with the zoning code. Additionally, the Applicant provided a photograph, labeled "11" in the top right corner and provided in the Commissioners agenda packet, which photograph is incorporated herein by reference. This map is a topographical map of the subject property with handwritten notations and intended to show the topography of the undeveloped subject property. However, the Commissioners previously noted that a four foot (4') retaining wall has since been installed

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between the first two rows of lots adjacent to Airway Avenue, altering the topography of the subject property in a manner not shown on this map.

The Commissioners found that the Applicant had the ability to find out what the development requirements were for small lots prior to requesting authorization for small lot development. The Commissioners also noted that this particular standard was in effect at the time the Applicant requested small lot development standards be approved for the subject property and relevant code revisions occurred prior to the Applicant's development of the subject property. They further noted that had the zoning code requirements changed while the subject property was being designed, the standard could have been "grandfathered," but that was not the case here.

The Commissioners found that the variance is necessary as a result of actions of the Applicant and will grant the Applicant a special privilege. The Commissioners also found that the requested variance is not necessary for the preservation of a property right possessed by owners of other property in the same zone or vicinity because the Applicant has development design options that he is choosing not to implement that would allow him to meet the zoning code requirement and alleviate the need for the variance application.

3. The authorization of the variance **will not** be materially detrimental or injurious to other property or owners of property in the same zone and vicinity, or otherwise conflict with the public interest or with the objectives of adopted city plans or policies. Applicable commentary:

The Commissioners unanimously agreed that approval of the variance would not be materially detrimental or injurious to other property or owners of property in the same zone and vicinity, or otherwise conflict with the public interest or with the objectives of adopted city plans or policies because if it were granted, the resulting development would not appear to cause detriment, harm, or otherwise adversely affect other properties in the same zone or vicinity. The Commissioners agreed that if granted, the variance would appear to comply with the goals and objectives adopted City plans and policies because the related development permits would be subject to those plans and policies.

The Commissioners also noted that they felt that the requested variance would still create an aesthetically pleasing neighborhood, and that future purchasers would probably prefer to have their driveways separated from one another instead of having them adjoining. The Commissioners could not identify a specific property right that would be injured by the requested variance, other than creating a special privilege to develop a noncompliant structure. Additionally, the Commissioners noted that adopted City plans and policies in the Comprehensive Plan favored quality developments and increased density of developments, which the Applicant intends to provide through this development project.

4. The variance requested **is not** the minimum variance which will alleviate the hardship. Applicable commentary:

Pat Severance, Development Supervisor Engineering Division of Public Works Department, testified that the Applicant has already proposed one alternative to the variance, but he was not

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aware of how the Applicant reached the conclusion this alternative required the driveways between the townhomes to be adjoining verses separated. He also testified that a sidewalk that has a 2% cross slope is ADA compliant, and that there were not many 2% cross sloped sidewalks in the City. Further, he indicated that the driveways themselves would only have a 2% cross slope if they were to follow the “lay of the land.” The Commissioners further discussed that the Applicant has the option to excavate and change the topography of the area, in addition to the changes he has already made to it. Pat Severance further testified that typically a developer would flatten out the development site, and leave the sides for slope transition between the lots.

The Applicant has testified that he could redesign the properties in compliance with the zoning code requirement, but doing so raises logistical questions as far as construction due to other development standards he must also comply with that are “tricky.” He also testified that from a marketing standpoint, he needs to have a neighborhood with continuity of design, and the zoning code requirement creates a “hodgepodge” of different structures and an inconsistent neighborhood. The Applicant provided photographs of another townhome community he developed in Clarkston, Washington that had this same layout and design, which were included in the Commissioner’s agenda packet, which materials are incorporated herein by reference. The Applicant further testified that once the garage protrudes beyond the zoning code requirement, it doesn’t matter how far the protrusion is, since its already noncompliant. The Applicant testified that his design actually costs more for him because he could design twenty foot (20’) garages, but that this would create more on the street parking, since the garage may be too small for some vehicles. However, by installing twenty-four foot (24’) garages instead of twenty foot (20’) garages, there is more space for people to park their vehicles in the garage, while also helping with the layout and design of the remaining living space.

The Commissioners found that if there was an undue hardship, the variance requested is not the minimum variance which will alleviate the hardship. The Commissioners also found the Applicant could redesign his development to reduce the severity of the current variance application (i.e., redesign to reduce the distance from which the garages would protrude from the living spaces of the homes to the point where the garages would not have the appearance of dominating the streetscape). Commissioner Kelley agreed with the Applicant’s testimony that aesthetically the required design is not pleasing and that having the garage protrude from the property does not present any issues he is aware of. However, judging the Applicant’s request off the requirements of the zoning code, he notes that the Applicant’s request is not the minimum variance that could be asked for.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant could not take actions to obtain approval, the explanation is:

There is no undue hardship identified. The slope of the subject property is not extreme and is relatively flat, to the point of meeting an ADA standard for vehicular and pedestrian slope allowance. The Commission noted that Lewiston in general has many neighborhoods with sloping topography, sometimes with significant deviations on the same lot. Additionally, the Applicant has development design options that he is choosing not to implement that would allow him to meet the zoning code

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requirement and alleviate the need for the variance application, so the application is a result of his actions. Lastly, the Applicant has the option to flatten any significant slopes prior to development of the lots in question, so the condition related to topography can be overcome.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant could take actions to obtain approval, such actions might include:

The Applicant cannot take actions to obtain approval because there was no undue hardship identified. The slope of the subject property is not extreme and is relatively flat, to the point of meeting an ADA standard for vehicular and pedestrian slope allowance. The Commission noted that Lewiston in general has many neighborhoods with sloping topography, sometimes with significant deviations on the same lot. Additionally, the Applicant has development design options that he is choosing not to implement that would allow him to meet the subject zoning code standard and alleviate the need for the variance application, so the application is a result of his action. Lastly, the Applicant has the option to flatten any significant slopes prior to development of the lots in question, so the condition related to topography can be overcome.

NOTICE TO APPLICANT: An applicant or affected person may file a written request for reconsideration with the City Clerk to request that the Planning and Zoning Commission reconsider its final decision within fourteen (14) calendar days by 5:00 p.m. on the fourteenth (14th) day after the Planning and Zoning Commission has adopted this Reasoned Statement of Relevant Criteria and Standards. The written request for reconsideration shall include, at a minimum, the following information: (i) the name and address of the applicant or affected person requesting reconsideration, (ii) the specific deficiencies in the decision for which reconsideration is sought, and (iii) a description of any procedural injury or substantial harm to real property interest(s) suffered as a result of the decision, all in accordance with Lewiston City Code § 37-185(b)(1). A form may be obtained from the City Clerk. A request for reconsideration shall be a mandatory exhaustion of an applicant or affected person's administrative remedies prior to the filing of an appeal of the Planning and Zoning Commission's decision to the City Council.

Within fourteen (14) calendar days after the Planning and Zoning Commission has adopted its written decision on reconsideration, an applicant or affected person may file with the City Clerk a written notice of appeal to the City Council, in accordance with Lewiston City Code § 37-185(c). A form may be obtained from the City Clerk. The written notice of appeal shall include, at a minimum, the following information: (1) the name and address of the applicant or affected person, (ii) identification of the section(s) of the Lewiston City Code or applicable state or federal law(s) that has been incorrectly applied or violated and a description of how they have been incorrectly applied or violated, and (iii) a description of the real or potential prejudice to a substantial right of the applicant or affected person. The fee required by Lewiston City Code § 37-188 shall be deposited with the City Clerk within the fourteen (14)-day period. If an appeal is not filed and/or the fee required by Lewiston City Code § 37-188 is not deposited within the fourteen (14)-day period, then the decision of the Planning and Zoning Commission shall be final.

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Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. The mailing of a signed and dated copy of this Reasoned Statement of Relevant Criteria and Standards by the City to the applicant shall constitute compliance with such notice requirement. An applicant denied an application or an affected person aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, as described above, seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

By: _____
Signature of Planning and Zoning Commission Chair or Vice Chair or Acting Chair

Printed: _____

Date of Signature: _____

ATTEST: _____
Dawn Ortiz, Community Development Office Supervisor

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR VAR24-2

CITY OF LEWISTON PLANNING AND ZONING COMMISSION DECISION ON RECONSIDERATION OF CUP24-3

This document shall serve as memorialization of the rationale for affirming, reversing or modifying the decision of the Planning and Zoning Commission, which shall be based upon criteria provided for in Title 37 of Lewiston City Code.

I. APPLICATION NUMBER:
CUP24-3

II. APPELLANT'S NAME AND ADDRESS:
Linda Glines
0229 22nd Street
Lewiston, ID 83501

III. APPLICANT'S NAME AND ADDRESS:
Michelle King
LC Valley Youth Resource Center Inc
1633 10th Avenue
Lewiston, ID 83501

IV. PROPERTY OWNERS' NAME AND ADDRESS:

Twin County United Way, Inc.	City of Lewiston
PO Box 1660	1134 F Street
Lewiston, ID 83501	Lewiston, ID 83501

V. IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:
2207 East Main Street and the two adjoining tax parcels to the north and east known as tax parcels RPL0500081001C and RPL365W081320, respectively.

VI. DATE OF PUBLIC HEARING:
August 28, 2024

VII. DATE OF PLANNING AND ZONING COMMISSION'S DECISION:
September 11, 2024

VIII. DATE OF RECONSIDERATION BY PLANNING AND ZONING COMMISSION:
September 25, 2024

IX. NAME OF HEARING BODY:
Lewiston Planning and Zoning Commission

X. DECISION:
The Lewiston Planning and Zoning Commission AFFIRMS its decision of CUP24-3.

DECISION ON RECONSIDERATION FOR CUP24-3

X. FINDINGS OF FACT:

1. The applicant is Michelle King of the LC Valley Youth Resource Center, Inc.
2. The property owners of record are the Twin County United Way, Inc. and the City of Lewiston, Idaho.
3. An Application For Conditional Use Permit was received on July 31, 2024, with attachments.
4. Additional information was requested by City staff, which was received on August 1, 2024.
5. The application was deemed complete and entered on Citizen Serve on August 2, 2024.
6. The application is for conditional use permit approval to establish a transitional housing village for homeless, young adults between the ages of 18 and 21 years of age. The application also included a request to allow a waiver of Lewiston City Code § 37-151(e) to allow off-street parking to back onto the street.
7. The subject property is approximately 0.5 acres.
8. The subject property is located in the Light Industrial, M-1, Zoning District.
9. Lewiston City Code § 37-85 identifies the following uses and their accessory uses as being permitted outright in the Light Industrial, M-1, Zoning District:
 - a. Auto, manufactured home, recreational vehicle, heavy equipment sales and service;
 - b. Boat sales and marina;
 - c. Commercial entertainment facility - indoor;
 - d. Commercial or industrial laundry;
 - e. Eating or drinking establishment;
 - f. General contracting and storage yard;
 - g. Greenhouses and nurseries;
 - h. Manufacturing, fabricating, processing, repairing, packing or storage, except a use specifically listed as a use permitted outright or as a conditional use in an M-2 zone;
 - i. Mini-storage;
 - j. Port facility;
 - k. Public use, or any use conducted by a private company or nonprofit organization that is substantially the same as or substantially similar to a use normally conducted by a public agency;
 - l. Retail sales and service;
 - m. Semi-public use, or any use conducted by a private company or nonprofit organization that is substantially the same as or substantially similar to a use normally conducted by a semi-public agency;
 - n. Service station;
 - o. Tire recapping;
 - p. Truck terminal;
 - q. Veterinary clinic or kennel;
 - r. Wholesale distribution.
10. Lewiston City Code § 37-86 identifies the following uses and their accessory uses as being permitted with an approved conditional use permit:
 - a. Bulk petroleum storage and distribution facilities;
 - b. Commercial entertainment facility - outdoor;

- c. Grain storage;
 - d. Homeless shelter, subject to the standards of section 37-125 of this Code;
 - e. Other light manufacturing uses which are not permitted outright but which are consistent with the purpose of the M-1 zone and are not detrimental to any of the outright permitted uses or other existing conditional uses or to nearby residential uses;
 - f. Other public use, or any use conducted by a private company or nonprofit organization that is substantially the same as or substantially similar to a use normally conducted by a public agency;
 - g. Other semi-public use, or any use conducted by a private company or nonprofit organization that is substantially the same as or substantially similar to a use normally conducted by a semi-public agency;
 - h. Quarrying;
 - i. Bridge housing shelter, subject to the standards of section 37-125 of this Code;
 - j. Transitional housing village, subject to the provisions of chapter 42 of this Code.
11. The existing use on the site is: commercial office and unimproved City Park land.
 12. Current access to the site is from East Main Street and 22nd Street.
 13. Lewiston City Code authorizes this conditional use pursuant to LCC § 37-86(10).
 14. A copy of the application and plans was transmitted to interested and affected public agencies on August 9, 2024 and written comments were received from:
 - a. City of Lewiston Public Works Department
 - b. City of Lewiston Fire Department
 15. Pursuant to Lewiston City Code § 37-184(b)(2), a public hearing notice containing the date, time, place of the public hearing, and a summary of the proposed application was mailed to property owners within 330 feet of the exterior boundaries of the subject property on August 9, 2024, at least 8 calendar days prior to the public hearing.
 16. On August 20, 2024 the subject property was duly posted with the public hearing notice pursuant to Idaho Code § 67-6512(b) at least one week prior to the public hearing.
 17. The record contains:
 - a. Notice of Public Hearing
 - b. Map of area to receive mailed public hearing notices
 - c. List of names and addresses receiving mailed public hearing notices
 - d. Application materials
 - e. Facility Management Plan
 - f. Maps of subject property
 - g. City Planner's Staff Report and referenced materials
 - h. Public comments
 - i. The Village: Facilitating Generational Change PowerPoint Presentation
 - j. YouTube recordings of August 28, 2024, September 11, 2024 and September 25, 2024 Planning and Zoning Commission meetings
 - k. Reasoned Statement of Relevant Criteria and Standards for CUP24-3 adopted September 11, 2024
 - l. Request for Reconsideration (Notice of Appeal to City Council) received September 19, 2024 and referenced materials

18. The public hearing notice was duly published in the Lewiston Tribune on August 11, 2024, at least 15 days prior to the public hearing date.
19. On August 28, 2024, a public hearing before the Planning and Zoning Commission was held:
 - a. The public hearing was opened at 6:07 p.m.
 - b. Joel Plaskon, City Planner, presented the staff report
 - c. Michelle King, of the LC Valley Youth Resource Center, Inc., presented testimony in support of the application
 - d. Oral Public Comments were received from:
 - i. Linda Glines – Opposed
 - ii. Trisha Ban – Opposed
 - iii. Jennifer Squires – Opposed
 - iv. Bill Kessel – Opposed
 - v. Kat Weber – Opposed
 - vi. Rick Tousley – In support
 - vii. Dick Jetson – Opposed
 - viii. Keith Watson – Opposed
 - e. Written Public Comments were received from:
 - i. Chaz Health – Aaron Wilson and Casey Heimgartner – In support
 - ii. Jim Rehder – In support
 - iii. Kelley McFee – In support
 - iv. Randy Ford, Lewiston Food Bank – In support
 - v. Vanessa Schneider – In support
 - vi. Beth Hawker – In support
 - vii. Lisa Martin – In support
 - viii. Charolette Hill – In support
 - ix. Wendy Geiger – In support
 - x. Megan Comstock – In support
 - xi. Jamie Simpson – In support
 - xii. Jolene Cliffe – In support
 - f. Michelle King was provided the opportunity to provide rebuttal testimony
 - g. The Planning and Zoning Commission asked questions of City staff and the Applicant
 - h. Pat Severance, Engineering Development Supervisor provided testimony on behalf of the City's Public Works Department
 - i. The Planning and Zoning Commission opened the floor for additional public testimony, and oral public comments were received from:
 - i. Jennifer Squires – Opposed
 - ii. Keith Watson – Opposed
 - j. Michelle King was provided the opportunity to provide rebuttal testimony
 - k. The public hearing was closed at 8:27 p.m.
20. The Planning and Zoning Commission deliberated and discussed the relevant criteria and standards, identified relevant facts and information, and articulated detailed reasons for its proposed decision to approve CUP24-3.

21. The Planning and Zoning Commission, by voice vote, voted 7-0 to direct staff to draft the Reasoned Statement of Relevant Criteria and Standards approving CUP24-3 including the requested waiver of LCC § 37-151(e).
22. During the public comment portion of the September 11, 2024 Planning and Zoning meeting, the Appellant provided testimony that she believed Commissioner Iaconboni had a conflict of interest that prohibited him from participating in the public hearing process, and that his deliberations could have unfairly influenced the other Commissioners and their vote. Specifically, she alleged he is a proponent who publicly supports the Village project, he has a “long-term relationship with Michelle King and her projects,” and pointed toward his role as Treasurer for the “LC Valley Adult Resource Center/the Ark” as evidence in support of this.
23. In addressing the alleged conflict of interest Commissioner Iaconboni provided the following statement:
 - a. He is the Treasurer of the LC Valley CARES Inc. (formerly known as the Adult Resource Center Inc.)
 - b. Michelle King is not on the board of directors for LC Valley CARES Inc.
 - c. Housing issues in general in the LC Valley are of importance to him
 - d. He has worked with Michelle King on past issues of mutual interest.
 - e. LC Valley CARES Inc. has no financial stake or interest in CUP24-3
 - f. He has not communicated with Michelle King or anyone else about CUP24-3, the Village project, or anything else related to the application before him
 - g. He has previously recused himself from matters where the Adult Resource Center Inc. has had an interest, and does not believe this situation is similar to then or that a conflict of interest exists
 - h. He pointed out that Wendy Geiger, who serves as the President of LC Valley CARES Inc. submitted a letter in support of CUP24-3, but she did so personally and not on behalf of LC Valley CARES Inc, and her letter of support did not represent an official action of the board of directors of LC Valley CARES Inc.
24. The Planning and Zoning Commission, by voice vote, voted 7-0, to adopt its Relevant Criteria and Standards drafted by staff as proposed on September 11, 2024.
25. The City received the Request for Reconsideration (as a Notice of Appeal to the City Council) on September 19, 2024.
 - a. Accompanying the Request for Reconsideration were 49 signatures in support of the request.
26. Lewiston City Code § 37-185(3)(a) provides that upon receipt of a request for reconsideration, the matter shall be scheduled for reconsideration by the Planning and Zoning Commission no later than the second regularly scheduled meeting after the filing of the request for reconsideration.
 - a. The hearing on reconsideration was held on September 25, 2024, the first regularly scheduled Planning and Zoning Commission meeting following receipt of the Request for Reconsideration.
27. Lewiston City Code § 37-185(3)(b) provides that upon reconsideration, the decision may be affirmed, reversed, or modified pursuant to Idaho Code § 67-6535, as may be amended from time-to-time.

28. On September 25, 2024 a public meeting before the Planning and Zoning Commission was held:
- a. City Attorney Jennifer Tengono presented her report:
 - i. As summarized, these issues are:
 1. Pat Severance's testimony consisted only of his opinion when he stated that CUP24-3 would not have a detrimental effect on the City's water and sewer systems in the area.
 2. 22nd Street cannot handle more traffic as-is, regardless of what a traffic impact statement says.
 3. The City's decision to no longer use the park for park purposes was not made with the consent of the neighboring property owners. The neighbors want the property to be restored as a City park.
 4. The neighbors are not sufficiently assured that the residents of the proposed transitional housing village will not be criminals, or that their friends and visitors will not increase crime in the immediate area.
 5. Public comment was limited to 3 minutes, but the applicant was provided an unlimited amount of time.
 6. Commissioner Iacobani asked a question that could have caused an emotional response, which was not fair to those who opposed the application.
 - ii. Appellant failed to identify any procedural injury or substantial harm to real property interest(s) she has or may suffer as a result of the Planning and Zoning Commission's approval of CUP24-3 in her Request for Reconsideration.
 - iii. The City Attorney testified that she believed the procedural or substantial property rights injured as a result of the Planning and Zoning Commission's decision were as follows:
 1. The P&ZC did not have sufficient evidence to concerning the water and sewer capacity for CUP24-3.
 - a. Here, the Appellant challenged the weight given to Pat Severance's opinion related to the ability of the water and sewer system to accept 13 more connections.
 2. The P&ZC should reconsider the City Council's legislative decision concerning the park area, which is only a portion of the subject property in CUP24-3.
 3. Procedural Due Process
 - a. The Appellant claims her procedural due process rights were violated due to a 3-minute time limit on public comments during the public hearing, while the Applicant, was given an unlimited amount of time to speak in favor of her application.
 - b. During the August 28, 2024 public hearing, the Appellant spoke for 4 minutes and did not take an opportunity to speak a second time when the floor was opened for a second round of public comment.

- c. During the public hearing, the Appellant did not object to the time limit at the time it was announced, nor did she request additional time to say what she wanted, nor did she submit written comment, which was an available option that contained no time limits.
4. Appearance of fairness in the process
 - iv. The City Attorney also testified that of the 49 signatures received in support of the Appellant's Request for Reconsideration, only 5 people participated in the public hearing.
 1. Additionally, of the 5 people who participated, only 3 people were entitled to mailed notice of the public hearing.
 - a. The Appellant was not one of the persons entitled to mailed notice of the public hearing for CUP24-3.
 2. Of the 49 signatures, only 14 of the individuals were property owners within 330 feet of the subject property.
 - b. Following the City Attorney's report and testimony, the Planning and Zoning Commission discussed and deliberated the Appellant's Request for Reconsideration point by point and made the following conclusions:

Conclusion			Standards
Affirm	Reverse	Modify	
X			Finding 1: Although Pat Severance was not specifically prepared to address the issues raised by the Appellant, his input was nonetheless considered. His opinion, combined with information from the City Staff Report, which included the Public Works Department's review of the application, was evaluated by the Planning and Zoning Commission in its decision to approve CUP24-3. The absence of issues identified concerning water and sewer services was a significant factor in reaching its conclusion.
			Explanation: The Public Works Department was duly notified of the application and was given the opportunity to provide comments. While various concerns were identified during the review process, there was no mention of any negative impacts on the water and sewer systems. The City of Lewiston confirmed its capacity to provide water and sewer services to the property in question. Importantly, throughout the application process, neither the City of Lewiston nor its departments raised any concerns regarding the viability of the water and sewer lines, even with the proposed addition of 13 more service lines.

X			Finding 2: The building development process and its requirements are beyond the authority of the Planning and Zoning Commission when considering a conditional use permit application. Although the Reasoned Statement addresses public safety and area usage, concerns about the roadway's capacity to handle increased traffic and civil issues related to property damage fall outside the Planning and Zoning Commission's jurisdiction. Explanation: The Appellant expressed concerns about the need to repave 22nd Street, which she claims cannot occur until the water and sewer lines are replaced. These infrastructure issues are not within the Planning and Zoning Commission's authority. Additionally, the requirement for a Traffic Mitigation Report is relevant to the building permit process, not the conditional use permit. Concerns about potential property damage by guests, visitors, and staff of the Applicant are civil matters and do not fall under the Planning and Zoning Commission's purview. Political subdivisions in the area were notified of the application, and none expressed objection or concern with the proposed project, other than what was identified in the City Staff Report.
X			Finding 3: The Lewiston City Council holds responsibility for designating park space and managing the use and disposition of City property. Explanation: While neighborhood preferences regarding the property are important, they are not part of the relevant standards and criteria outlined in Lewiston City Code §37-160 for evaluating the approval or denial of a conditional use permit application.
X			Finding 4: The Applicant's testimony on handling problematic residents, along with the Facility Management Plan and her experience with housing troubled youth, supported the Commission's decision that approving CUP24-3 would not compromise public health and safety. Explanation: The Appellant highlighted concerns related to the Applicant's inability to control problematic behaviors of the youth who will reside at the Village while they are off-site. However, Appellant did not specify any issues with the development or application of the Applicant's Facility Management Plan (Plan). The Plan, created with input from the Lewiston Police

			Department, mandates 24/7 supervision of the site, resident pre-screening, and regular drug testing (among other things). During the public hearing, unrelated neighborhood issues were raised by citizens that fall outside the scope of the conditional use permit approval process. The Planning and Zoning Commission confirmed that the Plan includes necessary elements, such as proper resident vetting. The Applicant cannot control individuals outside the facility but can remove residents who violate rules.
X			Finding 5: The Planning and Zoning Commission determined the issue to be moot because the Appellant did not utilize all available opportunities to provide testimony during the public meeting. Explanation: During the public hearing, the Appellant was given 4 minutes to testify. She did not object to the time limit, request more time, or submit written comments, which had no time restrictions. Additionally, she did not speak again when the Commissioners reopened the floor for additional public comment.
X			Finding 6: The Planning and Zoning Commissioners based their decisions on the entire record, not individual emotional reactions. Explanation: During the public hearing, various questions and comments were made that could have elicited emotional responses. The Planning and Zoning Commissioners emphasized that their decisions were based on the entire record, not on any single response. The Appellant did not claim actual bias, only that a single question might have caused an emotional reaction. An alleged conflict of interest was raised post-hearing but was addressed, with no actual conflict found.

XI. CONCLUSIONS OF LAW

The Lewiston Planning and Zoning Commission reviewed the Request for Reconsideration with regard to Lewiston City Code § 37-185, and based on the conditions required herein, concludes CUP24-3 **meets the standards of approval** under Lewiston City Code § 37-160(c) and Idaho Code § 67-6512.

XII. DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **AFFIRMS** its decision to **APPROVE** CUP24-3, including waiver of Lewiston City Code § 37-151(e) to permit off-street parking to back onto the street.

DECISION ON RECONSIDERATION FOR CUP24-3

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant could not take actions to obtain approval, the explanation is:

Not applicable. The decision is to affirm CUP24-3.

Pursuant to Idaho Code § 67-6519(5)(c), if the decision on this application is to deny it and the applicant could take actions to obtain approval, such actions might include:

Not applicable. The decision is to affirm CUP24-3.

NOTICE TO APPLICANT AND AFFECTED PERSONS: Within fourteen (14) calendar days after the Planning and Zoning Commission has adopted its written decision on reconsideration, an applicant or affected person may file with the City Clerk a written notice of appeal to the City Council, in accordance with Lewiston City Code § 37-185(c). A form may be obtained from the City Clerk. The written notice of appeal shall include, at a minimum, the following information: (1) the name and address of the applicant or affected person, (ii) identification of the section(s) of the Lewiston City Code or applicable state or federal law(s) that has been incorrectly applied or violated and a description of how they have been incorrectly applied or violated, and (iii) a description of the real or potential prejudice to a substantial right of the applicant or affected person. The fee required by Lewiston City Code § 37-188 shall be deposited with the City Clerk within the fourteen (14)-day period. If an appeal is not filed and/or the fee required by Lewiston City Code § 37-188 is not deposited within the fourteen (14)-day period, then the decision of the Planning and Zoning Commission shall be final.

Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. The mailing of a signed and dated copy of this Reasoned Statement of Relevant Criteria and Standards by the City to the applicant shall constitute compliance with such notice requirement. An applicant denied an application or an affected person aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, as described above, seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

By:

Signature of Planning and Zoning Commission Chair or Vice Chair or Acting Chair

Printed:

Date of Signature:

ATTEST:

Dawn Ortiz, Community Development Office Supervisor

DECISION ON RECONSIDERATION FOR CUP24-3