



Lewiston Planning & Zoning Commission
AMENDED REGULAR MEETING AGENDA
December 27, 2023 - 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. All others who wish to observe this meeting may watch and listen to the livestream on their own device(s) by visiting the City of Lewiston's website at cityoflewiston.org.

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 minutes each.

III. ACTIVE AGENDA

A. APPROVAL OF DECEMBER 13, 2023 MEETING MINUTES (ACTION ITEM)

B. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS FOR CONDITIONAL USE PERMIT APPLICATION CUP23-5 BY BRIAN KRUEGER FOR 1407 POWERS AVE (ACTION ITEM)

C. APPROVAL OF THE REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS FOR REZONE APPLICATION ZNC23-7 BY KEITH JACOBS FOR 1828 AND 1832 IDAHO STREET (ACTION ITEM)

D. INITIATION OF ZONING CODE AMENDMENT ZA-03-23 TO CHANGE SEC. 37-193, PENALTY (ACTION ITEM)

E. INITIATION OF ZONING CODE AMENDMENT ZA-04-23 TO CHANGE SEC. 37-140.1, HOME OCCUPATION GENERAL PROVISIONS (ACTION ITEM)

IV. STAFF-COMMISSION COMMUNICATIONS

A. QUERY OF COMMISSIONERS FOR THE JANUARY 10, 2024 MEETING (PUBLIC HEARING ON CONDITIONAL USE PERMIT APPLICATION ANTICIPATED).

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 the Community Development Specialist at least forty-eight (48) hours in advance of the meeting at 208-746-1318, ext. 7265.

December 13, 2023

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

I. CALL TO ORDER

COMMISSIONERS PRESENT: Michael Busch, Chair; Gabriel Iacoboni, Vice Chair; Maureen Anderson; Cynthia Ball;

COMMISSIONERS EXCUSED: Kevin Kelly; Kathy Branson

STAFF MEMBERS PRESENT: Joel Plaskon, City Planner; Dawn Ortiz, Community Development Specialist; Aaron Butler, IT; Jennifer Tengono, Assistant City Attorney

II. CITIZEN COMMENTS

None

III. ACTIVE AGENDA

A. APPROVAL OF OCTOBER 25, 2023 MEETING MINUTES (ACTION ITEM)

Commissioners Anderson and Ball moved and seconded, respectively, approval of the October 25, 2023 meeting minutes. The motion carried 4-0.

B. PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR CONDITIONAL USE PERMIT APPLICATION CUP23-5 BY BRIAN KRUEGER FOR 1407 POWERS AVE (ACTION ITEM)

Chair Busch 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. The city’s Public Works Department, Engineering Division stated a traffic impact analysis would not be needed and has no problems with this application. The Fire Department has already approved the location during an inspection for the business license.

Commissioner Ball asked for clarification in regards to if the previous business were considered to be a home business. Staff Plaskon stated the previous businesses were not because they would not meet the requirements for home occupations.

There being no further questions of staff, Chair Busch asked the applicant for testimony.

Applicant Brian Krueger, 13th St C Lewiston Id, and Sam House, 1519 Airway Ave, Lewiston Id, stated there is a history of business use at this location such as an auction house and other auto repair. Business hours on planned Monday through Friday 9 am to 5 pm. The outdoor storage area will be towards the North and it is not clearly visible from the street, it is fenced on the north and east side, they have plans to put up a fence on the west side where they will store customers' vehicles properly. The gravel driveway is compacted and should not be a tripping hazard for customers. There will be a handicapped parking area that will be close to the paved area in front of the structure on the west side. He believes that they comply with the requirements for the zoning criteria of a C3 area that abuts this area.

He went on to say that there are several commercial locations that abut a residential zone some of those examples are the City's owned Police gun range and Army National Guard. They do not plan on adding security lighting as they do not see a need as most security cameras have night vision. Most all tools used will be electric and these tools do not make the much noise. The reeving of unmuffled ATVs is not good for the machine and this will not be done. 99% of the vehicles coming in have to abide by a US Forest Service noise decidable so the exhausts will not be loud. LOID is just down the road and they run dump trucks and other heavy machinery and they do not foresee them being any louder than them. Their plans for the future is to continue as a small business with only them as the two employees.

Commissioner Ball asked if either applicant lived on site. Both applicants stated no they do not and there is a current tenant living in the home who is not affiliated with their business.

Commissioner Ball asked in regards to the looping traffic going around the current home located on the lot and adding additional traffic. Mr. Krueger stated there is the option for customers to drop off their machinery at the front of the shop location and not have to loop around the existing house on site.

Commissioner Ball is concerned about the traffic "looping" around the tenant living in the home on the property. Asked if the applicant has thought about reaching out to the tenant and working with them in regards to traffic. Mr. Krueger stated they have had conversations with the tenant.

Commissioner Anderson asked in regards to the fencing Mr. Krueger had mentioned installing at the back of the property. Mr. Krueger stated fencing would

be to hide more of the vehicles stored in the back of the property it would tie into the existing fencing.

Commissioner Ball asked if customers would be test drive their vehicles/machines in the roadways. Mr. Krueger stated their customers' vehicles/machines will not be tested around the property, roadways or surrounding area. He has hardly been asked by customers to test drive their machines during pickup.

Commissioner Anderson asked the length of the lease and is there anything within the lease for environmental uses. Mr. Krueger stated it is a 12-month lease, their lift equipment is moveable and fluids extracted from the machines are saved in containers that are removed by specific companies. Staff Tengono stated there are federal and state liabilities for environmental uses.

Commissioner Ball asked if the house is under a 12-month lease also and what would happen if a new house tenant moved in. Jessica Klein, property owner, stated the house is under a month to month lease right now. If this tenant leaves then the next tenant would need to be in agreement with this use being next to them.

Commissioner Anderson asked what happens if these tenants are not in agreement. Mrs. Klein stated she is used to having tenants and conflict resolution would be needed between both tenants.

Staff Tengono stated these questions are out of the scope of the Conditional use permit.

Vice Chairperson Iacoboni asked where the garage doors are located. Mr. Krueger stated they are located on the south side of the building facing Powers Ave. There is only one garage door leading into the garage.

Vice Chairperson Iacoboni asked if on the east side of the building are there any doors. Mr. Krueger stated there is just a wall on the east side.

Chair Busch asked if the applicant why they do not want to pave the parking lot and if he would be willing to pave it. Mr. Krueger stated the cost to pave the parking lot far exceeds what their capable of paying for as a new business. Staff Plaskon stated that if there is going to be a condition of approval of the application it should not be based on if the applicant is willing to comply. He also reminded the commission that this business is at the minimum threshold to trigger the paving of the parking, as mentioned in the staff report. The business is not expected to generate a large amount of traffic or parking demand. Mr. Krueger

stated it is probably far less traffic and the existing driveway is compacted enough that it should not produce much dust. He could see this as a requirement for a zoning change and would continue to be used as a commercial business.

Chair Busch stated that conditional use permits stay with the life of the property. Staff Tengono pointed out the decibel levels for code was removed and it put a description and how the sounds are made. Generally, loading and unloading vehicles you would have to audible noise more than 50 feet away for it to be considered a nuisance. The operation between 9 am to 5 pm would not be considered a nuisance. There is city code in regards to dust and the applicant will be required to abide by dust abatement.

Commissioner Ball asked Mrs. Klein if it is her intention to treat the shop and the home as separate income uses. Mrs. Klein stated yes she would continue as renting them separately.

There being no further questions for the applicant, Chair Busch asked for public testimony.

Susan Akins, 1401 Powers Ave. The tenant that lives in the rental house has vehicles that do not allow other vehicles to be driven around the house and also park in front of the house. The shop structure to be used commercially was once two rentals. Most all of the other tenants that used this structure became a nuisance also. Parking is an issue due to the house tenant leaving around 2:30 am and the drive way on the west side is shared between the two neighbors. She has concerns for her property value and this property is already a nuisance and will continue to become more of a nuisance. There are a lot of commercial business locations where a business of this type could go. This not a good idea and not a good location for an ATV repair business.

Commissioner Ball asked if they use the egress access and they have back out spots and do they have any problem with overlapping with the current house tenant with truck parking. Mrs. Akins stated she does not have any problem with the tenants logging truck.

Mark Jennings 1405 Powers Ave, and is neutral on this use. Stated the auction house was a known entity and they had their own private driveway. General public have no concerns for private property. He doesn't want to see what happened with the previous boat repair business where the property was a full of the public parking in front of the properties and not be able to get into their own driveway. He has spoken with the applicant and he does not think there is going to be a problem. Also feels that him and wife will make more noise than

the applicant will. Current renters in the house are some of the best renters at this location, he may run his truck at 3 in the morning, but he hopes they stay. Dust should not be a problem. He does have some concerns about the condition use permit staying with the property, but he really doesn't see it being an issue.

Staff Tengono wanted to highlighted concerns about noise of normal operation vehicles of someone that lives on or outside the property is outside the scope of the CUP application.

Mrs. Klien stated the reason she supports this business is that she believes in what they are doing and the city needs more business that do this and the community is very excited about this. They have worked very hard to get this property turned around to make this property nice and ready for use.

Commissioner Iacoboni asked if there is already machinery in the shop. Mrs. Klein stated they are still in the lease agreement stages because they have been able to start the business.

There being no further testimony, Chair Busch asked applicant for their rebuttal. Mr. Krueger stated the current tenant in the house and the parking situation they will need to work out something that works out for both of them. There have been problems in the past, but don't let their mistakes effect their business. If they become a nuisance, then the city has procedures in place to push back. They are going to run a professional business with a professional look. The outside of the building is the first impression. Mr. House stated when a customer is picking up or dropping off it is a pretty short process and they are not hanging around for hours.

There being no further rebuttal from the applicant, Chair Busch closed the public hearing.

After discussion of relevant criteria, Vice Chairperson Iacoboni and Commissioner Anderson moved and seconded, respectively, to direct staff to draft Reasoned Statement approving CUP23-5. Motion passed 4-0.

C. PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR CONDITIONAL USE PERMIT APPLICATION CUP23-4 AND VARIANCE APPLICATION VAR23-1 BY THE LAMAR COMPANIES LLC FOR 226 W 22ND ST NORTH. (ACTION ITEM)

Chair Busch 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.

Commissioner Ball pointed out that across the street the commission has already issued a billboard sign conditional use permit and these signs should be 500 feet apart. Commissioner Ball motion to table CUP23-4 and VAR23-1. Motion died with no second.

There being no questions for staff, Chair Busch asked the applicant for testimony.

Neil Schreibeis Post Falls, Id., representative of applicant, The Lamar Companies, LLC, stated that due to the alley is the need for a variance. The sign would not over hang. The sign on the property across the road was actually a sign that they owned. Providing a product to the community by offering advertisement. Ken Hobart 531 18th Avenue Lewiston, Id, representative of the applicant stated that there was already a sign at one point in time.

Commissioner Ball asked if the property to the west was the able to be used for the location of the sign. Mr. Hobart stated no they would want the traffic travelling on the highway to see it. Stated that there is an on premise and off premise sign option that could make a big different on what is being approved.

Staff Plaskon stated the approval for the previous for the sign on the opposite side of the road was identified as a billboard and on premise verse off premise was removed from the code. He also encouraged the Commission to complete the public hearing and then table the CUP23-4 and VAR23-1 with allowing the applicant to make changes to the application.

Mr. Schreibeis stated the applicant for the sign across the street would have had to apply with IDT and they do not think they have.

Commissioner Ball restated that the request for the sign across the road that she has been referring to was for a billboard and they had provided the whole package.

There being no further questions for the applicant, Chair Busch asked for public testimony. Staff Ortiz read an email in favor to the record from Erik Nelson, incorporated herein by this reference. See Appendix "A" to these meeting minutes for reference.

Staff Tengono stated that the commission approved a reason statement for a conditional use permit for CUP23-000001 (the billboard across the roadway

approved prior, as discussed herein above). The applicant has 12 months to apply for a permit to erect that billboard in order to vest that CUP. There was information in the reasoned statement of the glare and normal standards from ITD. Staff Ortiz confirmed that a sign permit was issued for that billboard on 4/11/2023 for a billboard via use of the permitting software used at Community Development.

There being no further public testimony, Chair Busch asked the applicant's representative for a rebuttal. Mr. Hobart asked to be able to make changes to current application request and come back before the commission with a new variance.

Commissioners Anderson and Ball, moved and seconded, respectively, to table CUP23-4 and VAR23-1 and allow applicant to make changes to current application and resubmit for a new hearing. Motion passed 4-0.

D. PUBLIC HEARING AND SUBSEQUENT DELIBERATION AND DIRECTION TO STAFF REGARDING THE REASONED STATEMENT FOR REZONE APPLICATION ZNC23-7 BY KEITH JACOBS FOR 1828 AND 1832 IDAHO STREET. (ACTION ITEM)

Chair Busch 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.

Commissioner Ball asked for clarification if the house to the east accessed via the alley. Staff Plaskon stated yes.

There being no further questions of staff, Chair Busch asked the applicant for testimony. Ryan Houlihab 3808 Barr Rd, Lewiston ID and Keith Jacobs 310 Fraser Grade, Kamiah ID stated the three parcels would be rezoned for a law office that is family owned. Parcels do fall within the comprehensive plan and the parcels would be best used as a commercial use. It would not produce any burdens onto the current neighbors. They are working currently on the landscaping, restoring the historical look, and replacing a dilapidated fence. They are removing some of the accessory structures to allow for ADA parking. Will replace the drive access and replace 100 feet of the curb and gutter.

Commissioner Ball asked if the fencing was around all three lots. Mr. Jacobs stated the fencing along the alley way was replaced and the chain link fence across the front was replaced.

There being no further questions for the applicant, Chair Busch asked for public testimony. Staff Ortiz read voicemail received in favor of zone change. "Jim Albright with 1818 G Street Properties LLC is in favor of the zone change for ZNC23-7."

There being no further public comment and the applicant did not have any rebuttal Chair Busch closed the public hearing.

After discussion of relevant criteria, Commissioners Ball and Vice Chairperson Iacoboni moved and seconded, respectively, to direct staff to draft a Reasoned Statement recommending approving ZNC23-7 to the City Council. Motion passed 4-0.

IV. STAFF-COMMISSION COMMUNICATIONS:

A. Query of Commissioners for December 27, 2023 meeting.

Staff Plaskon updated the Commission on the Comprehensive Plan. There should be a draft presented and provided to the Commission shortly from the consultants. The next Steering Committee meeting is January 8th, 2024

All current commissioners plan to be in attendance for the December 27, 2023 meeting.

V. ADJOURN

There being no further business, Chairperson Busch and Commissioner Anderson moved and seconded, respectively, to adjourn. The motion carried 4-0 and the Planning and Zoning Commission adjourned at approximately 8:05 p.m.

RESPECTFULLY SUBMITTED,

Dawn Ortiz,
Recording Secretary

Chairperson or Acting Chairperson
Planning and Zoning Commission

Approved this _____ day of _____, 2023.

Appendix A



Lewiston

Dawn Ortiz <dortiz@cityoflewiston.org>

Dec. 13th 5:30 Public Hearing, IN FAVOR testimony, Billboard 226 W 22nd St. N

1 message

Erik Nelson <escottnelson@gmail.com>

Wed, Dec 13, 2023 at 10:54 AM

To: dortiz@cityoflewiston.org

December 13, 2023

Dawn Ortiz
City of LewistonRe: Conditional Use Permit Application CUP23-4 By the Lamar Companies LLC to Install a Billboard at 226 W 22nd St. N. /
Sign Variance Application VAR23-1 by the Lamar Companies LLC - TESTIMONY SUBMISSION - IN FAVOR

Good evening, Lewiston Planning and Zoning Commission members.

My name is Erik Nelson and I own the convenience store/gas station property up on W 22nd St. N. You may recognize it as the "Liberty Mart." My apologies for not joining the hearing in person.

After my father, Rick Nelson passed, my wife and I acquired the property and have had the pleasure of partnering with Janet Rimmelpacher to sustain a small local business. Her success has been our success over the years.

Recently, we had a chance to add a digital billboard to the property and were excited for the opportunity. We would like to submit testimony IN FAVOR of a building variance grant for several reasons:

Firstly, a digital billboard would be well-situated near Hwy 12 to promote local economic activity in the area. That includes a benefit to the convenience store on premise. We're excited to help keep local dollars in the community.

Secondly, we believe the dynamic and attractive fixture would be exceptionally positioned for tourism promotion, bringing in new money into the valley. Billboard promotions would increase visitor activity in the area at a high-traffic entry into town.

Lastly, a billboard advertising lease would diversify my family's local investment, thus making us more resilient as small-time landlords during economic ups and downs.

And, I believe the professionals at Lamar Companies will do their due diligence to create an attractive and modern display that leaves a positive impression overall.

Please consider our request to build this investment and note our whole-hearted testimony IN FAVOR.

Thank you for your consideration,

Erik Nelson, Property owner

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

This document shall serve as memorialization of the rationale for the granting or denial of a Conditional Use Permit, 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:**
CUP23-5
- II. **APPLICANT'S NAME AND ADDRESS:**
Brian Krueger
3524 13th St C
Lewiston, ID 83501
- III. **IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:**
1407 Powers Ave
Lewiston, ID 83501
- IV. **DATE OF PUBLIC HEARING:**
12/13/23
- V. **NAME OF HEARING BODY:**
Lewiston Planning and Zoning Commission
- VI. **NATURE OF SUBJECT CONDITIONAL USE PERMIT APPLICATION:**
Change of nonconforming use, pursuant to Lewiston City Code Sec. 37-170(4)(f) for an off-road vehicle repair and customization business in the Low Density Residential, R2A, Zoning District.
- VII. **DECISION:**
The Lewiston Planning and Zoning Commission **APPROVES CUP23-5.**
- VIII. **CONDITIONS OF APPROVAL:**
Pursuant to Lewiston City Code § 37-160, the Planning and Zoning Commission may impose conditions upon approval of a conditional use permit. This conditional use permit is subject to the following conditions:

None.
- IX. **TERMINATION OF CONDITIONAL USE PERMIT:**
Pursuant to Lewiston City Code § 37-160, authorization of a conditional use permit shall be void after twelve (12) months unless:

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR CUP23-5
Page 1 of 7

- (1) A building permit pursuant thereto has been applied for;
- (2) Where no building permit is required, the intent of the conditional use has been fulfilled; or
- (3) Substantial progress towards completion of the project has been accomplished, as determined by the community development director.

X. RELEVANT CONTESTED FACTS RELIED UPON:

The relevant contested facts relied upon are:

Lewiston City Code Sec. 37-170(4)(f) provides the applicant the opportunity to receive administrative approval for the change of a nonconforming use of a property if, after notifying property owners and tenants within three hundred (300) feet of the subject property, no objection is received concerning the proposed change in nonconforming use. If no written objections were received from those persons entitled to receive notification within fifteen (15) days of receiving such notice, zoning approval may be granted. However, if any written objection is received, then the applicant must apply for a conditional use permit. *See* Lewiston City Code Sec. 37-170(4)(f). In this instance, the applicant did receive objection to the change in nonconforming use and subsequently applied for a conditional use permit in accordance with Lewiston City Code Sec. 37-170(4)(f).

Susan Atkins, a property owner and neighbor whose property is within three hundred (300) feet of the subject property, provided comment during the public hearing against the applicant's conditional use permit. She disagreed with how the property's driveway would be used and expressed concerns about the current tenant, a logger with a large truck. She complained that the truck was often parked in front of or on the driveway, which she felt was inappropriate for a residential property. She worried that the tenant's parking habits might block commercial traffic from using the driveway properly. Additionally, Atkins mentioned that limited parking at the property led to cars being parked in front of the residence. She highlighted that the property's shop, previously divided into two rentals, now operates as a single nonconforming business. Atkins believed it wasn't a good idea to allow commercial use of the building, citing past instances where businesses had caused a nuisance in the area. She expressed concern that the current tenant, being a logger with noisy equipment, early departures, and work-related items stored on the property, was already a nuisance. She also emphasized the general concern among residential property owners about the impact of nearby businesses on property values. Atkins felt there were better locations within the city for the applicant's business and suggested that her property would be a more suitable option for future commercial use than the subject property. Overall, she argued that allowing a business in the shop would worsen the existing nuisances caused by the current residential tenant's occupation and activities.

It was noted by the Assistant City Attorney, Jennifer Tengono, that Ms. Atkin's comments concerning the residential tenant, his occupation and use of the residential dwelling, were outside the scope of the applicant's proposed nonconforming commercial use and the conditional use permit application before the Commission.

Marcus Jennings, a property owner and neighbor whose property is located between the subject property and the property of Susan Atkins, provided comment during the public hearing in a neutral tone regarding

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FOR CUP23-5

Page 2 of 7

the applicant's conditional use permit. He mentioned being aware of past businesses operating at the subject property's shop. Jennings indicated having discussed the applicant's plans for the shop and didn't foresee any problems if the Commission approved the conditional use permit. He highlighted his familiarity with potential noise concerns related to the applicant's business, stating that he himself conducts maintenance on his ATV and motorcycles on his property, which might generate more noise occasionally compared to the applicant's business.

XI. RELEVANT CRITERIA AND STANDARDS:

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

1. The proposed use **will not** result in conditions that will tend to generate nuisances (such as noise, dust, glare, vibrations, and odors) or, if so, any anticipated nuisances will be appropriately mitigated. Applicable commentary:

The City Planner, Joel Plaskon, presented the City's staff report to the Commission summarizing the report's information and analysis concerning the subject property and application. The Commission received information from the applicant that he intended to operate Monday through Friday, from 9 am to 5 pm, and would not operate his business on weekends. Further, he intends to fence off the portion immediately behind the shop to use as a secure area to store equipment and vehicles, so as to keep the front appearance of the property nice and free from clutter, equipment, and vehicles that are being worked on. The applicant also noted that he did not intend to install additional outside security lighting, since current surveillance technology did not require such lighting anymore. Applicant testified that he is willing to install additional insulation in the structure to buffer the sound of tools being used and invest in tools that will create a lower decibel level of noise when used, such as electric impact tools as opposed to air impact tools. Applicant also indicated that customers were not permitted to test drive their ATV's at drop off or pick up, and that all testing/diagnosis of the vehicle would occur within the shop. As a part of the applicant's application, he has requested waiver of the paving and landscaping requirements for the shop. He stated that the shop currently has compacted gravel in the parking areas, which makes the gravel less of a tripping hazard and suitable for the type of traffic expected for the business. Additionally, the compacted gravel aids in reducing dust at the property, since it won't turn to mud when wet and then dry out into dust.

The Assistant City Attorney provided testimony that the current noise ordinance was amended in October 2023, and removed the motor vehicle noise performance standards and permissible environmental noise and sound levels previously in City Code. She highlighted that if the conditional use permit were granted, the applicant would be required to comply with the noise ordinance. However, she noted that a "nuisance" is enumerated in code and not based upon any one person's opinions. Additionally, she again highlighted that the neighbor's concerns about the residential tenant's noise from his occupation is not the type of "nuisance" within the scope of the conditional use permit, even though it may be an annoyance to her.

The Commission felt the hours and days of operation proposed by the applicant were appropriate to minimize the disruption to any neighboring properties, allowing those neighboring properties to not be subject to noise during early morning hours, late evenings, or weekends. The Commission also

noted that the applicant's business will be conducted indoors, which will aid in mitigating possible noise nuisances from his work on ATVs at the shop. The Commission also recognized that there is a City Nuisance Code that the applicant would be required to comply with. The Commission also believed that the applicant is taking the necessary steps to mitigate possible nuisances his business may create and is likely to comply with all requirements of city code.

2. The proposed use **is not** a public necessity **but is** justified by the applicant and deemed to be of benefit to the public. Applicable commentary:

The applicant is proposing to operate an off-road vehicle (including ATVs, motorcycles, and side-by-sides) repair and customization business in the existing shop on the subject property. The business will have two employees, including the applicant. The business will operate Monday through Friday, from 9 am to 5 pm.

The Commission agreed that supporting the business community and the creation of jobs through small businesses was important to the community. The Commission agreed that the type of business, repair and maintenance of all-terrain vehicles and other small engine and off road vehicles was one that is important to the community because of the high number of residents who enjoy that form of recreational activity. However, the business was not a necessity in and of itself.

3. The character of the proposed use, if developed according to the plan as submitted, **will** be in harmony with the area in which it is to be located. Applicable commentary:

The Commission received information from the staff report that the subject property is used primarily as a rental for a single family home. However, it also has a history of nonconforming commercial uses operating in the detached shop on the property. Such businesses have included an auction house, firearms and ammunition sales, and an auto and RV repair. The surrounding land uses are a mix of commercial and residential zones, with single family residential properties immediately to the north and east of the subject property. South of Powers Avenue are an endoscopy and gastroenterology business. Southwest of the subject property, while zoned residentially is a large church property consisting of approximately 11 acres. To the west of the subject property and across Thain Road is an automotive repair business. The applicant testified that the proposed hours of operation would be 9 am to 5 pm, Monday through Friday. The applicant also testified that the outdoor or "bull pen" area will be to the north of the existing shop building and will be fenced to both provide a buffer to the surrounding residences and security to the equipment that may be stored in that area.

As a part of the applicant's application, he has requested waiver of the paving and landscaping requirements for the shop. He stated that the shop currently has compacted gravel in the parking areas, which makes the gravel less of a tripping hazard and suitable for the type of traffic expected for the business. He also indicated that there was a parking spot on the west side of the building that would be used as the ADA compliant stall that had a concrete pad next to it and led directly to the entry. Additionally, the compacted gravel aids in reducing dust at the property, since it won't turn to mud when wet and then dry out into dust.

The Commission noted the subject property's history of having a commercial use for the shop would be consistent with the applicant's proposed use of the shop. This aids in maintaining the current look and nature of the neighborhood, considering the mix of residential and commercial uses. The Commission felt the applicant's willingness to pursue the conditional use permit instead of performing services as a "back yard repair shop" showed commitment to maintaining the residential character of the neighborhood, while providing a needed service. Commissioner Ball addressed her concern about conformance to the City's long-range plan, since it is expected to remain residential and has not yet taken the necessary step to change the future land use designation for the subject property. She also stated that even though the shop has been used commercially in the past she didn't believe the proposed commercial use would fit, even though there are commercial uses nearby.

4. The proposed use **will not** endanger the environment or the public health or safety. Applicable commentary:

The City Planner noted that the subject property was barely the minimum size to require paving and landscaping requirements. Further he stated that the nature of the business contemplated at the subject property is not like a retail store where a large variety of different customers would visit. Instead, the customers would likely be those who are capable of using ATVs, so not having paved parking and landscaping would not adversely affect the public's use of the subject property.

The subject property is served by existing water and sewer services. The Commission heard testimony regarding state and federal regulations that control the disposal of fuels, oils or lubricants that may be used in the applicant's business. The applicant indicated that he contracts with a specialty business that comes and safely removes and disposes of waste oil. The Commission also noted that the applicant has already taken steps to mitigate dust in the area, which will protect the surrounding area. The Commission felt that those regulations provided the needed protections to environmental safety.

5. The proposed use **will not** be in substantial conformance with the Comprehensive Plan. Applicable commentary:

The Commission received information from the staff report that the subject property is used primarily as a rental for a single family home. However, it also has a history of nonconforming commercial uses operating in the detached shop on the property. Such businesses have included an auction house, firearms and ammunition sales, and an auto and RV repair. The surrounding land uses are a mix of commercial and residential zones, with single family residential properties immediately to the north and east of the subject property. Despite prior mixed use of the subject property, the subject property is located in a residential zone and also has a future land use designation of residential. The previous non-conforming commercial use has created a situation where commercial activities have been present on this property for many years off and on.

The Commission felt that the applicant's testimony about the hours and days of operation would make the commercial use of the property less intrusive than the previous non-conforming commercial use that was open on Saturday's. The Commission noted that there is a need to preserve residential areas and prevent them from changing into commercial uses. However, the Commission also recognized that the history of the shop's use for commercial purposes was significant and even though not in conformance with the comprehensive plan, has been a part of the neighborhood for a long time.

6. Pursuant to Idaho Code § 67-6512, the conditional use permit may be granted subject to the ability of political subdivisions, including school districts, to provide services for the proposed use. Applicable commentary:

The subject property is currently serviced by City water and sewer. There is no expectation that future demands on these services will change as a result of the applicant's conditional use. The City's Engineering Division of the Public Works Department provided comment to city staff that "due to the limited number of employees (two) & hours of operation (Mon-Fri; 9AM-5PM) no traffic impact statement is needed and there is no objection to this CUP application." The Lewiston Fire Marshal also provided comment, which stated "Fire has inspected and approved the occupancy through the Business License process."

The Commission received information from the City Planner that political subdivisions were notified of the application and only City departments provided comments. No objections were received regarding ability to provide services from any other political subdivision. The Commission noted that had other political subdivisions had wanted to object, they would have provided comment to that effect.

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: 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

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FOR CUP23-5

Page 6 of 7

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

**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:
ZNC23-7

II. APPLICANT'S NAME AND ADDRESS:
Keith Jacobs
316 3rd Street
Kamiah, ID 83536

III. IDENTIFICATION AND/OR LOCATION OF SUBJECT PROPERTY:
1828 and 1832 Idaho Street
Also known as tax parcels RPL16700050140, RPL16700050120, RPL16700050100

IV. DATE OF PUBLIC HEARING:
December 13, 2023

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

VI. NATURE OF APPLICATION:
Rezone subject property from Higher Density Residential (R-4) Zone to General Commercial (C-4) Zone.

VII. DECISION:
The Lewiston Planning and Zoning Commission recommends **APPROVAL of ZNC23-7** to the Lewiston City Council.

VIII. RELEVANT CONTESTED FACTS RELIED UPON:

The relevant contested facts relied upon are: None.

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 City Planner, Joel Plaskon, provided a presentation to the Commission summarizing the City's Staff Report and opinions/observations he had concerning the subject property and application. The Commission received information from City Planner, the Applicant, Keith Jacobs, and Ryan Houlihan, that the Applicant seeks the rezone of the property to convert the existing residential dwelling into a commercial law/business office using the existing structure. The subject property is located in Neighborhood Number 2 – Normal Hill. It has a Comprehensive Plan (Plan) future land use designation of Commercial. The Commission determined that the proposed rezone to the General Commercial (C-4) Zone is in conformance with the Plan because of the Plan's future land use designation of Commercial. The surrounding properties are a mix of commercial uses and higher density residential uses (residential uses are to the south of the subject property). The residential uses in the neighborhood are adequately separated from the proposed commercial use of the subject property by the topography of the area. The subject property is on a slope, with Idaho Street being at an elevation of approximately 750 feet and the alley to the south of the subject property at an elevation of approximately 770 feet. This topography does help provide a natural barrier between the commercial and residential uses in the neighborhood. Further, Idaho Street currently contains a mix of commercial buildings/uses and residential dwellings that have been converted to commercial businesses/uses.

Chapter 6 of the Plan, Land Use, lists Goal LU-1.0 "To promote orderly development and arrangement of land uses throughout the community; provide ample space for future growth, ensure the compatibility of adjacent land uses and follow sound environmental planning principals." and Goal LU-2.0 "Assure that there is sufficient commercially zoned land available in the City." The Commission determined that the proposed rezone is compatible with these goals based upon the information received from the Applicant and the staff report provided by the City Planner. They found that the proposed rezone and proposed commercial use of the subject property is compatible with adjacent residential development since Idaho Street has a mix of residential dwellings, commercial buildings, and commercial uses in residential buildings – such as the proposed usage of the subject property.

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:

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR ZNC23-7
Page 2 of 6

The Commission received information from the City Planner and Applicant concerning the subject property related to its central location on a busy street (Idaho Street) and the proposed commercial use for the subject property. The Plan's future land use designation of Commercial supports a rezone from the Higher Density Residential (R-4) Zone to General Commercial (C-4) Zone. The subject property is located along the northern boundary of the Higher Density Residential (R-4) Zone and bordered on the west and north by property located within the General Commercial (C-4) Zone. The majority of properties along Idaho Street are located within the General Commercial (C-4) Zone, with only a few of the parcels being within the Higher Density Residential (R-4) Zone. The surrounding properties are a mix of commercial and high density residential uses, with commercial uses to the west and north of the subject property, and mostly to the east of the subject property (the property next to the subject property is within the Higher Density Residential (R-4) Zone, but the property next to that one is within the General Commercial (C-4) Zone).

The Applicant testified that the subject property was previously used as a residential rental property, but that he felt that the proposed business usage was in more conformance with the neighborhood than residential usage. The Commission noted that it believed the change of use of the residential dwelling to a commercial office building would bring stability to the subject property, especially with the proposed improvements to subject property that would be required to convert it for business use. Therefore, the Commission determined that the subject property is more suitable for the proposed commercial zone than its current single family residential use.

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

The Commission received information from the Applicant that the subject property currently contains a single family dwelling and a storage building/shop. The Commission also received information from the City Planner that the properties to the north are used commercially, including a wholesale retailer and a former building supply store that is now used as a storage lot with offices and parking. To the east of the subject property is a single family dwelling and then more commercial uses (hearing aid retailer, dental office, and other various business offices), and to the west are commercial uses such as a computer repair shop and a large multi-unit storage rental complex. Uses to the south of the subject property (across the alley and elevated from the subject property) are residential in nature, with a mixture of single family, duplex, and multi-family dwellings. The neighboring single family dwelling to the east (1842 Idaho Street) is separated from the subject property by a 51-foot-wide parcel that contains a detached garage, which is located on the southern end of that property. This property provides a buffer from the proposed office use of the subject property. The current commercial building located on the corner of Idaho Street and 19th Street is in closer proximity than the subject property is to the same residential dwelling. Lastly, the layout of the subject property would have future customers parking on the west side of the subject property, next to the existing commercial building on the west side of the subject property and away from the residential dwelling to the east of it.

The Commission found that the proposed rezone and business office use will seamlessly integrate into the existing neighborhood. The Applicant testified that he intended to restore the existing residential dwelling, while also converting it for commercial/business office usage. The Commission noted that the development of the subject property is in progress and will be done in compliance with Lewiston City Code, including obtaining all the necessary permits and review by City staff. The Commission found that the Plan's future land use designation of the subject property and proposed business office use is a lesser intensity use than some of the other commercial uses currently present in the neighborhood.

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:

The Lewiston Fire Department provided written comment stating "Plans provided by an Idaho licensed architect and permits for associated work required for the change of occupancy prior to occupancy and/or business license approval." The City's Engineering Division of the Public Works Department commented: "Engineering has no objections to [the] zone change. Change of [the property's] use will require that frontage be brought up to ADA compliance."

Idaho Street is a collector street and the East Route bus route runs along this section of the street. The subject property is located in the middle of the block with 18th Street intersecting with Idaho Street to the west (18th is an arterial street), and 19th Street intersects with Idaho Street to the east (19th is a local road). The anticipated traffic from the proposed rezone will not adversely affect the current amount of traffic in the neighborhood.

The Commission received information from the City Planner that political subdivisions were notified of the proposed rezone application and only City departments provided comments. No objections from outside political subdivisions were received. The Commission noted that had other political subdivisions objected they would have provided comment to that effect.

The subject property is already served by City water and sewer service and located on an improved public right of way.

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 Commission received information from the Applicant that the subject property currently contains a single family dwelling and a storage building/shop. The neighboring single family dwelling to the east (1842 Idaho Street) is separated from the subject property by a 51-foot-wide parcel that contains a detached garage, which is located on the southern end of that property. The residential uses in the neighborhood are also adequately separated from the proposed commercial use of the subject property by the topography of the area. This property provides a buffer from the proposed office use of the subject property. The Applicant

testified that he intended to restore the existing residential dwelling, while also converting it for commercial/business office usage. The development of the subject property is in progress and will be done in compliance with Lewiston City Code, including obtaining all the necessary permits and review by City departments. He has also gone through the administrative process through the Public Works Department to obtain an encroachment permit as a result of his replacement of the existing fence along the south property line, which encroached upon the alleyway.

The Commission also received information from the City Planner that the surrounding properties are a mix of commercial uses and higher density residential uses (residential uses are to the south of the subject property). Many of the existing businesses in the area are located within buildings that had previously been residential dwellings that were converted to a business. The subject property would be of the same nature, and therefore, integrate seamlessly to its neighborhood. The Commission received one public comment in favor of the proposed rezone of the subject property, and no objections were received by the affected properties within 330 feet of the subject property or the public at-large.

The Commission discussed the proposed business office use and the extensive work the applicant has already begun on the property clearing overgrown vegetation and replacing dilapidated fencing and outbuildings. The previous single family dwelling was noted to be a rental property and the Commission felt the change of use to an office building would bring stability to the property with the proposed improvements.

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: _____

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR ZNC23-7
Page 5 of 6

Dawn Ortiz, Community Development Office Supervisor

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
FOR ZNC23-7
Page 6 of 6

Sec. 37-178. Authorization to initiate amendments.

An amendment to the text of this chapter or to the official zoning map may be initiated by the council, by the commission, or by the property owner. A property owner may initiate a request for an amendment by filing an application with the community development department using forms prescribed in article XIII. The application shall be submitted at least twenty (20) working days prior to the meeting of the planning and zoning commission at which it will be considered.

(Ord. No. 4108, § 2, 8-15-94)

ZA-03-23

ARTICLE XIV. REMEDIES

Sec. 37-193. Penalty.

A willful violation of any provision of this chapter shall be a petty misdemeanor. Each day that a violation occurs shall constitute a separate offense.

(Ord. No. 4108, § 2, 8-15-94)

Sec. 37-194. Alternative remedy.

In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or the land proposed to be used, is in violation of this chapter, the building or land in violation shall constitute a nuisance, and the city may, as an alternative to other remedies that are legally available for enforcing this chapter, institute an injunction, abatement, or other appropriate proceeding to prevent, enjoin, temporarily or permanently abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

(Ord. No. 4108, § 2, 8-15-94)

Sec. 37-178. Authorization to initiate amendments.

An amendment to the text of this chapter or to the official zoning map may be initiated by the council, by the commission, or by the property owner. A property owner may initiate a request for an amendment by filing an application with the community development department using forms prescribed in article XIII. The application shall be submitted at least twenty (20) working days prior to the meeting of the planning and zoning commission at which it will be considered.

(Ord. No. 4108, § 2, 8-15-94)

ZA-04-23

Sec. 37-140.1. General provisions.

(a) A home occupation is an activity, profession, or craft carried on entirely within a residence or associated accessory buildings by the occupants, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character of it; is conducted in such a manner as to not give any outward appearance of a business in the ordinary meaning of the term, except as may otherwise be the case from any related signage allowed by Chapter 30 of this code; so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence; and which does not infringe upon the rights of neighboring residents to enjoy a peaceful occupancy of their homes.