

FINDINGS OF FACT AND DECISION

CITY OF POCA TELLO

HEARING EXAMINER

HEARING WAS HELD APRIL 10, 2025

PROJECT: Delano Home

FILE #: VAR25-0001

APPLICANT/OWNER: Rocky Mountain Home Builder, Blake Harrington

REQUEST: Variance for 312 square feet more than allowable

LOCATION: RPRPBR000801, 1000 Block of Delano Avenue

STAFF: Becky Babb, Planning Manager

REQUEST & BACKGROUND:

Blake Harrington, of Rocky Mountain Home Builders, submitted a variance application, requesting exemption from side and rear setbacks. This property has an Idaho Power easement on it that requires a front setback of more than 30' from Delano Ave.

According to 17.02.160, A variance is a modification of the bulk and placement requirements of this title as to lot size, lot width, lot depth; front yard, side yard, rear yard setbacks; parking space requirements, height of buildings, or other ordinance provisions adversely affecting the development or use of property. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of the characteristics of the site and that the variance is not in conflict with the public interest.

The subject property, known as RPBRC000801 on Delano Ave, entails 0.10 acres (more or less) and is zoned Residential Medium Density Single Family (RMS) with a Future Land Use designation of Residential. The request is to allow a variance for the minimum setback requirements, due to an Idaho Power easement, in order to allow for the construction of a single family home. This is a legal non-conforming lot as the lot size (4,356 sf) does not meet minimum size requirements for a lot in the RMS zone (5,000sf). This lot has been recognized as legal non-conforming. In a 2006 recorded survey, Tract 3 of the Brennan Cahoon Subdivision, four unique parcels were created; two of those new parcels are 1026 Calhoon Ave and the subject lot on Delano. At the time, the City had not codified a short plat process and therefore we consider the lots legal non-conforming.

Sewer is currently not to the lot, therefore, the applicant will have to extend the sewer mainline ~150 feet and pay sewer capacity fees to connect the home to the mainline sewer service. These services alone will cost ~\$50,000. For the builder to obtain a return on investment, the square footage of the home needs to be large enough to make a return on investment feasible.

NOTIFICATION: Notice was posted on the subject property and published in the Idaho State Journal on March 25, 2025. All property owners adjacent to the subject property have been provided notice of the public hearing in order that they may provide comment on the proposed Variance. No written comments were received from the public prior to the publishing of this staff report.

HEARING EXAMINER AUTHORITY TO GRANT: The hearing examiner may approve, approve with conditions, or modification, or deny an application for a variance. The decision may be appealed by the

Instrument # 22503903
Bannock County, Pocatello, Idaho
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Recorded for: CITY OF POCA TELLO
Jason C. Dixon Fee: \$0.00
Deputy: cteuscher

applicant or other affected persons according to the provisions of Idaho Code section 67-6521. Said appeal is to the city council pursuant to the process outlined in section [17.02.400](#), "Appeals", of this chapter.

VARIANCES: 17.02.170:

A. A variance is a modification of the bulk and placement requirements of this title as to lot size, lot coverage, lot width, lot depth; front yard, side yard, rear yard setbacks; parking space requirements, height of buildings, or other ordinance provisions adversely affecting the development or use of property. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of the characteristics of the site and that the variance is not in conflict with the public interest; and **G.** The granting of a prior variance or referencing property developed under prior regulations is not admissible evidence for the granting of a new variance. Each request for a variance shall be judged on its own facts and circumstances. The applicant must support their case with substantial and competent evidence.

2040 CITY OF POCA TELLO COMPREHENSIVE PLAN:

Staff finds that the following goals, objectives and policies from the Comprehensive Plan to be applicable to this application:

- 1. Create Complete Neighborhoods by implementing development criteria informed by unique neighborhood plans.
- 2. Conduct intentional, equitable, and measurable neighborhood planning.
- 3. Create a Housing Plan that will provide guidance on housing needs for each neighborhood.
- 4. Assist those who are un-housed or otherwise in need to help prevent their involuntary displacement.
- 5. Develop form-based code standards to guide new development within each neighborhood.
- 6. Preserve the authenticity of Pocatello’s neighborhoods and celebrate our history, architecture, and culture.

ANALYSIS AND FINDINGS OF FACT: FINDINGS OF FACT:

The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the subject property and surrounding area. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner states that there is nothing personally or professionally that would not allow an impartial or unbiased decision.

City Staff did not receive any written comments.

A public hearing was held on Thursday, April 10, 2025, beginning at approximately 5:30 p.m. and closing at approximately 5:36 p.m.

Staff finds that the proposed variance meets the standards for approval under Pocatello City Code Section 17.02.160.

CRITERIA FOR REVIEW: The Hearing Examiner shall review the facts and circumstances of each proposal in terms of the standards listed in the table below:

Table 1. Variance Review Criteria Analysis				
REVIEW CRITERIA (17.02.160.F):				
Compliant			City Code and Staff Review	
Yes	No	N/A	Code Section	Analysis

☒	☐	☐	17.02.160.F1	The applicant shall have taken all reasonable steps to comply with the strict terms of the ordinance from which he or she requests the variance.
			<i>Staff Review</i>	This parcel has been considered for development numerous times and because of the Idaho Power Easement and lack of connectivity to sewer this property has proven to be difficult to develop. The applicant has explored housing market options, researched all costs involved in developing and without a variance, development of this property is not likely.
			<i>Applicant Response</i>	After careful review of setback ordinances, a custom plan was developed to fit within the parameters to maximize the lot size and dimensions.
☒	☐	☐	17.02.160.F2	The variance sought must be the result of unusual physical characteristics of the site in question.
			<i>Staff Review</i>	This is a small lot as it is 4,356 sf.
			<i>Applicant Response</i>	23.3 ft back from the east property line is a centerline of an overhead Idaho Power transmission line
☒	☐	☐	17.02.160.F3	The circumstances surrounding the variance request shall be due to an undue hardship as related to the characteristics of the land, and the applicant shall show that, absent a variance, he/she would be deprived of rights commonly enjoyed by other properties in the identical zoning district under the terms of this title.
			<i>Staff Review</i>	Idaho Power transmission line easement is a unique physical characteristic of this property. Without this variance, the property owner cannot develop the land in a fiscally responsible manner.
			<i>Applicant Response</i>	Idaho Power is requiring any home built be 8ft back from the centerline of the legacy overhead transmission line. This drastically changes the size of any potential home that could be built on the lot maintaining the current setback requirements.
☒	☐	☐	17.02.160.F4	The undue hardship cited as the basis of a variance request did not result from the actions of the applicant, or the current, or a prior landowner, or any of their agents.
			<i>Staff Review</i>	Idaho Power, is a public utility, and the applicant played no part in developing the transmission line.
			<i>Applicant Response</i>	Idaho Power is requiring any home built be 8ft back from the centerline of the legacy overhead transmission line. This drastically changes the size of any potential home that could be built on the lot maintaining the current setback requirements.
☒	☐	☐	17.02.160.F5	The applicant shall demonstrate that the proposed variance does not adversely affect adjacent/nearby property.
			<i>Staff Review</i>	The applicant will be able to maintain a front setback of 31', 5'3" on southside, 12'7" rear setback, 5'4" on northside.
			<i>Applicant Response</i>	The home is proportional to all other homes located in the area. It will still comply with the front setback requirement.


Kathleen Lewis
Hearing Examiner

ACELINE MCCULLA
NOTARY PUBLIC
STATE OF IDAHO
COMMISSION # 20210088
MY COMMISSION EXPIRES 01/22/2027

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FINDINGS OF FACT AND DECISION

CITY OF POCATELLO

HEARING EXAMINER

HEARING HELD APRIL 10, 2025

PROJECT: Create bouldering gym, classified as indoor entertainment

FILE NO.: CUP25-0002

APPLICANT/OWNER: Jack Brennan

REQUEST: Conditional Use Permit

LOCATION: 835 W. Bridger Street

STAFF: Becky Babb, Planning Manager

REQUEST & BACKGROUND: Jack Brennan has submitted a Conditional Use Permit request to allow a Bouldering Gym, which is classified as an indoor entertainment facility, in a legal non-conforming structure in a residential zone. The building has existed for more than 25 years and historically has been used as a mattress warehouse, a flooring business, and then has been vacant for more than 10 years. According to 17.01.170.3.b,

Expansion or Change: Permits to expand or change existing nonconforming uses, land area, or density may be sought through the conditional use permit process regardless of the underlying zoning district. Further, any site modifications that could change or intensify a nonconforming use such as, but not limited to, parking spaces, traffic circulation, ingress/egress, curb cut location, landscaping removal, or similar items of change will require a conditional use permit.

The subject property, known as 835 W Bridger St, entails 0.43 acres (more or less) and is zoned Residential Medium Density Multi-family (RMM) with a Future Land Use designation of Residential. The request is to allow a bouldering gym in the residential zone; expansion of legal non-conforming use. A bouldering gym is classified as Indoor Entertainment

Notification: Notice was posted on the subject property and published in the Idaho State Journal on March 25, 2025. All property owners within three hundred feet (300') of the external boundaries of the subject property have been provided notice of the public hearing in order that they may provide comment on the proposed Conditional Use Permit. No written comments were received from the public prior to the publishing of this staff report.

Hearing Examiner Authority to Grant: The Hearing Examiner may approve, approve with conditions, or deny an application for a Conditional Use Permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code section 67-6521) to the City Council pursuant to the process outlined in Pocatello City Code section 17.02.400: Appeals.

CONDITIONAL USE PERMITS (CUP): 17.02.130.A DEFINITION: Conditional uses are uses that are allowed within a zoning district provided that certain standards (or "conditions") are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the city an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses. This request falls under the expansion clause for legal non-conforming structures. Legal

Instrument # 22503904
Bannock County, Pocatello, Idaho
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Recorded for: CITY OF POCATELLO
Jason C. Dixon Fee: \$0.00
Deputy: cteuscher

Nonconforming Uses: A use that was legally established but no longer complies with the allowed uses or restrictions of this title is considered a legal nonconforming use. Expansion or Change: Permits to expand or change existing nonconforming uses land area, or density may be sought through the conditional use permit process regardless of the underlying zoning district. Further, any site modifications that could change or intensify a nonconforming use such as, but not limited to, parking spaces, traffic circulation, ingress/egress, curb cut location, landscaping removal, or similar items of change will require a conditional use permit.

POCATELLO MUNICIPAL CODE SECTION 17.02.130.E AUTHORITY TO GRANT:

The hearing body may approve, approve with conditions, or deny an application for a conditional use permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code section 67-6521) to the city council, using the process outlined in section 17.02.400, "Appeals", of this chapter. The hearing body may impose any conditions necessary to accomplish the following: **1.** Minimize potential adverse impacts on other developments and surrounding land use; **2.** Control the sequence and timing of development; **3.** Control the duration of the construction period; **4.** Assure that development is maintained properly; **5.** Designating the exact location and nature of development; **6.** Require the provision for on-site or off-site public facilities or services; **7.** Require more restrictive standards than those generally required in this title; **8.** Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction; and **9.** Require that studies addressing demographic, economic, fiscal, traffic, engineering, geologic, and environmental effects and any aviation hazard as defined in Idaho Code section 21-501(2), be conducted prior to granting approval.

DECISION & CONDITIONS:

Based on review of the Application for the conditional use permit, analysis of the staff report, applicants' presentation, received during the public hearing regarding this conditional use permit application. The Hearing Examiner **approves the conditional use permit**, finding the application does meet the standards for approval under Chapter 17.02.130 of Pocatello Municipal Code. The following terms and conditions derived from the City Staff Report are required: (bold text, if any, indicates hearing examiner modifications to City Staff conditions: **A)** Required Improvements: All building permits and developments shall be brought into full compliance with current landscaping and parking standards...; **a:** Stripe parking lot offering at least one handicap parking space; **B)** Fencing with privacy slats; **C)** Any outdoor lighting shall meet standards as set out in 17.05.420; and **D)** Business curfew in line with Residential Commercial Professional standard (06:00am-10:00pm).

FINDINGS OF FACT:

1. The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the subject property and surrounding area. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner states that there is nothing personally or professionally that would not allow an impartial or unbiased decision.
2. City Staff did not receive any comments prior to the public hearing.
3. Three comments were received during the public hearing.
4. A public hearing was held on Thursday April 11, 2025, beginning at approximately 5:37 p.m. and closing at approximately 6:01 p.m.

CRITERIA FOR REVIEW: The Hearing Examiner shall review the facts and circumstances of each proposal in terms of the standards listed in the table below:

Table 1. Conditional Use Permit Review Criteria Analysis

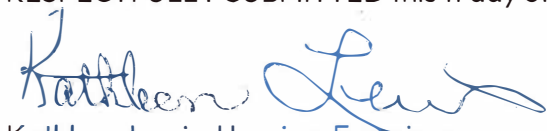
REVIEW CRITERIA (17.02.130.D):					
Compliant			City Code and Staff Review		
Yes	No	N/A	Code Section	Analysis	
☒	☐	☐	17.02.130.D1	Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this code unless modified through the CUP process.	
			<i>Staff Review</i>	This Indoor Entertainment use, a Bouldering Gym, requires a CUP application under 17.01.170.3.b as this building has been a legal non-conforming structure for more than 25 years.	
			<i>Applicant Response</i>	The property is currently zoned medium density residential, but the two previous uses were a commercial floor covering business and before that a mattress factory	
☒	☐	☐	17.02.130.D2	Is consistent with the goals and policies of the comprehensive plan of the city.	
			<i>Staff Review</i>	The comprehensive plan calls for our community to be Outdoor Oriented, Economically Robust, and to encourage Civic Collaboration. A bouldering gym in a residential zone will support those goals.	
			<i>Applicant Response</i>	The property is currently vacant and has been for at least 12 years. The conditional use permit would allow the building to be occupied. I believe that one of the City's goals is to put vacant properties to use.	
☒	☐	☐	17.02.130.D3	Is compatible with existing and permitted land uses within the general area.	
			<i>Staff Review</i>	Surrounding area is a mix of grandfathered businesses and residential homes.	
			<i>Applicant Response</i>	The existing property is near a school and an Idaho Power substation, which are both commercial uses.	
☒	☐	☐	17.02.130.D4	Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare.	
			<i>Staff Review</i>	All utilities and services are currently hooked up to the subject property. The property owner attended a Site Plan meeting and no concerns were voiced by City departments about utilities.	
			<i>Applicant Response</i>	The property is serviced by existing streets and City utilities.	
☒	☐	☐	17.02.130.D5	Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.	
			<i>Staff Review</i>	Historically, this commercial building has co-existed with surrounding neighborhoods.	
			<i>Applicant Response</i>	The property is about 0.44 acres and is a one story building similar in height to the surrounding structures	
☒	☐	☐	17.02.130.D6	Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.	
			<i>Staff Review</i>	Staff does not see environmental concerns with a bouldering gym being permitted in this area. No exterior additions are proposed.	

			<i>Applicant Response</i>	The property would not affect the surrounding area any more than the commercial businesses that were there before.
			17.02.130.D7	Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.
☒	☐	☐	<i>Staff Review</i>	The Boulderling Gym would not be detrimental to public interests, health, safety, or welfare of the city.
			<i>Applicant Response</i>	I cannot see that the proposed use would affect public health, safety or welfare other than to provide a space for exercise and recreational activities.

APPLICANT NOTICE:

Notice is hereby given that this decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section 67-6521) to the City Council, using the process outlined in Municipal Code Section 17.02.400 pursuant to Idaho Code Section 67-8003 within 14 days of this recorded decision.

RESPECTFULLY SUBMITTED this 11 day of April 2025


Kathleen Lewis, Hearing Examiner

STATE OF IDAHO)

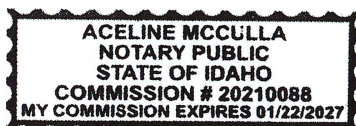
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County of Bannock)

On this day 14th of April, 2025 before me, the undersigned, a Notary Public in and for the State, personally appeared Hearing Examiner Kathleen Lewis, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly sworn, acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Seal





Aceline McCulla
Notary Public for Idaho
Residing at Pocatello, Idaho