

HEARING EXAMINER

DECISIONS FOR

AUGUST 14, 2025

AGENDA 2: CUP25-0004

AGENDA 3: VAR25-0003

FINDINGS OF FACT AND DECISION

CITY OF POCATELLO HEARING EXAMINER

HEARING HELD AUGUST 14, 2025

APPLICANT: Amy Delaney

OWNER: Amy Delaney

REQUEST: Conditional Use Permit for home addition

LEGAL DESCRIPTION: S23-T6S-R34E LOTS 42 & 43 BLOCK 7 TOWNSITE OF FAIRVIEW

GENERAL LOCATION: 390 Park Ave

STAFF: Jennifer Flynn, Assistant Planner

FILE NO.: CUP25-0004

REQUEST & BACKGROUND: The request is for a conditional use permit to expand into the front setback by installing a covered porch and new stairs. Required front setback for this zone is 20'. The subject property, known as 390 Park Ave., entails 0.14 acres (more or less) and is zoned Residential Medium Density Single Family (RMS) with a Future Land Use designation of Residential.

NOTIFICATION (17.02.300. A.3.b & IDAHO CODE §67-6512): Notice was posted on the subject property and published in the Idaho State Journal on July 29, 2025. All property owners within three hundred feet (300') of the external boundaries of the subject property were 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 or during the public hearing.

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 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

Instrument # 22509346
Bannock County, Pocatello, Idaho
08/19/2025 02:29:18 PM No. of Pages: 4
Recorded for: CITY OF POCATELLO
Jason C. Dixon Fee: \$0.00
Deputy: J McDonald

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: **1.** A building permit application shall be submitted and approved prior to any construction activities on the subject property.

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 comments prior to the public hearing.

No comments were received at the public hearing.

A public hearing was held on Thursday August 14,2025 beginning at approximately 5:31 p.m. and closing at approximately 5:37 p.m.

Table 1. Conditional Use Permit Criteria Analysis

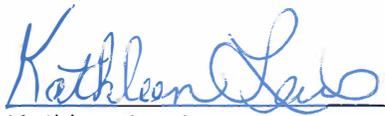
REVIEW CRITERIA (17.02.130):					
Compliant			City Code and Analysis		
Yes	No	N/A	Code Section	Analysis	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.2.D.1	Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this code unless modified through the CUP process;	
			<i>Staff Review</i>	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.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.2.D.2	Is consistent with the goals and policies of the comprehensive plan of the city;	

			Staff Review	Future Land Use Map designates this property to be residential for future use. This designation denotes projected or existing residential areas of various densities and forms. These areas include a range of residential uses from suburban to urban neighborhoods.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D.3	Is compatible with existing and permitted land uses within the general area;
			Staff Review	Other homes within this block have reduced setbacks as many older homes were built under different standards. Our code does allow for Building projections such as eaves, bay windows, and chimneys may extend a maximum of two feet (2') into designated setbacks (side, rear or fronts). Non-enclosed porches, steps and decks less than thirty inches (30") in height from finished grade may extend a maximum of six feet (6') or fifty percent (50%), whichever is less, into the required front and rear setbacks, and may extend a maximum of two feet (2') into required side yard setbacks, according to note 4 in 17.03.600. While this request extends beyond what dimension codes require, this request is appropriate given its legal non-conforming status.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D.4	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;
			Staff Review	All utilities and services are currently available up to the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D.5	Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses;
			Staff Review	Adjacent land uses are similar, such as setbacks and size of the subject property, and fit within the residential category.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D.6	Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.
			Staff Review	This expansion would not intensify the environmental impact.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D.7	Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.
			Staff Review	This expansion would not be detrimental to public interests, health, safety, or welfare of the city.

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 19th day of August 2025.


Kathleen Lewis
City of Pocatello Hearing Examiner

STATE OF IDAHO)

ss:

County of Bannock)

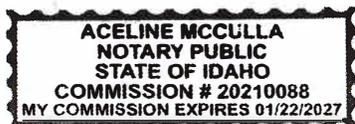
On this 18th day of August 2025, before me, the undersigned, a Notary Public in and for the State, personally appeared Hearing Examiner Kathleen Lewis, on behalf of the City of Pocatello, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly 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.



Aceline McCulla
Notary Public for Idaho
Residing at Pocatello, Idaho

Seal



**AMENDED FINDINGS OF FACT AND DECISION
CITY OF POCATELLO
HEARING EXAMINER**

HEARING HELD AUGUST 14, 2025

Instrument # 22509345
Bannock County, Pocatello, Idaho
08/19/2025 02:29:18 PM No. of Pages: 6
Recorded for: CITY OF POCATELLO
Jason C. Dixon Fee: \$0.00
Deputy: J. McDonald

PROJECT: Construct an accessory structure
FILE #: VAR25-0003
OWNER: Rodney Sortor
REQUEST: Variance for Accessory Structure, DET25-0008
PARCEL #: RPCPP155200
GENERAL LOCATION: 8961 Shores Road
STAFF: Jennifer Flynn, Assistant Planner

REQUEST & BACKGROUND:

The request is to allow a Variance from Pocatello Municipal Code Section 17.03.200.A.1.a which states *the combined footprint of all accessory structures shall be no larger than the square foot area of the primary structure* for Residential Medium Density Single Family Zoning district (RMS). The applicant is requesting a variance to:

1. Build an accessory structure (1440 square feet) that exceeds the square footage of the primary structure at 8961 Shores Rd.

NOTIFICATION (17.02.300. A.3.b & Idaho Code §67-6512):

Notice was posted on the subject property. 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 or during the public hearing.

VARIANCE: 17.02.160 DEFINITION:

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.

POCATELLO MUNICIPAL CODE SECTION 17.02.400 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 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.

DECISION & CONDITIONS:

Based on the review of the application for a variance, analysis of the staff report, and the applicant's presentation received during the public hearing, the Hearing Examiner approves the request for a variance to build an accessory structure-e (1400 square feet) that exceeds the square footage of the primary structure at 8961 Shores Rd with the following conditions:

1. Any standards/regulations not herein noted but applicable to the proposed development shall be strictly adhered to;
2. A building permit application shall be submitted and approved prior to any construction activities on the subject property;
3. Applicant shall sign agreement with the City to have the container unit removed from property or guarantee that the unit be roofed, sided, and secured to the foundation before permit DET25-0008 is issued.

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.

- A public hearing was held on Thursday, August 14, 2025, beginning at approximately 5:38 p.m. and closing at approximately 5:54 p.m.
- City Staff did not receive any comments prior to the public hearing.
- No comments were received at the public hearing.

Table 1. Conditional Use Permit Criteria Analysis

REVIEW CRITERIA (17.02.160.F):				
Compliant			City Code and Analysis	
Yes	No	N/A	Code Section	Analysis
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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>	The applicant reached out to City staff to explore options once the building permit was denied. It was determined that attaching the garage would not work as there are other structures in the way. Building a smaller shop was discussed but not an attractive option for the applicant. Through discussion, staff and applicant agreed that a variance was appropriate. The applicant applied for a variance before starting to build the shop.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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 property is much larger than most found within City limits as it was recently annexed from Bannock County. It's important to note that staff found various cases of similar situations that had their variances approved given the large amount of land.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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>	Being annexed into the City has changed the rules for this piece of property. The goal is to find balance in permitting the land owner to utilize their property while beautifying our community.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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>	The land owner did not elect to be annexed. This being noted, all residents of Pocatello are subject to the same standards.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.160.F5	The applicant shall demonstrate that the proposed variance does not adversely affect adjacent/nearby property.

		Staff Review	If this variance is granted, and conditions are required, this variance would benefit the community as the property would get cleaned up.
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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 19th day of August 2025.

Kathleen Lewis
 Kathleen Lewis,

City of Pocatello Hearing Examiner

STATE OF IDAHO)
 ss:
 County of Bannock)

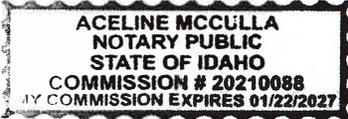
On this 19th day of August 2025, before me, the undersigned, a Notary Public in and for the State, personally appeared Hearing Examiner Kathleen Lewis on behalf of the City of Pocatello, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly 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.

Aceline McCulla

Aceline McCulla
 Notary Public for Idaho
 Residing at Pocatello, Idaho

Seal



FINDINGS OF FACT AND DECISION
CITY OF POCA TELLO
HEARING EXAMINER
HELD AUGUST 14, 2025

Instrument # 22509177
Bannock County, Pocatello, Idaho
08/15/2025 01:48:43 PM No. of Pages: 3
Recorded for: CITY OF POCA TELLO
Jason C. Dixon Fee: \$0.00
Deputy: JmcDonald

FILE: VAR25-0003

APPLICANT: Lacey Harger and Rodney Sortor

OWNER: Rodney Sortor

REQUEST: Variance for Accessory Structure, DET25-0008

PARCEL #: RPCPP155200

GENERAL LOCATION: 8961 Shores Road

STAFF: Jennifer Flynn, Assistant Planner

GENERAL BACKGROUND:

Request: The request is to allow a Variance from Pocatello Municipal Code Section 17.03.200.A.1.a, which states that the combined footprint of all accessory structures shall be no larger than the square foot area of the primary structure for Residential Medium Density Single Family Zoning district (RMS). The applicant is requesting a variance to Build an accessory structure (1440 square feet) that exceeds the square footage of the primary structure at 8961 Shores Rd.

“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.”

Physical Characteristics of the Site:

The subject property, known as RPCPP155200 located at 8961 Shores Rd, entails 7 acres (more or less) and is zoned Residential Medium Density Single Family (RMS) with a Future Land Use designation of Residential. Currently, this property hosts: a 26’x26’ carport, a container unit, a “meat shop”, and a shed in addition to the home. This property was annexed into the City on June 6th, 2024. The County does not have record of any of the accessory structures currently on this land being permitted. The footprint of the home, is 864 sf: including the screened in porch, it’s ~1,080sf.

Notification:

Notice was posted on the subject property. 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 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.

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	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	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>Applicant Response</i>	Applied for building permit, still in review due to size of garage is bigger than the house which is only 864 sq. ft.	
			<i>Staff Review</i>	The applicant reached out to City staff to explore options once the building permit was denied. It was determined that attaching the garage would not work as there are other structures in the way. Building a smaller shop was discussed but not an attractive option for the applicant. Through discussion, staff and applicant agreed that a variance was appropriate. The applicant applied for a variance before starting to build the shop.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.160.F2	The variance sought must be the result of unusual physical characteristics of the site in question.	
			<i>Applicant Response</i>	7 acres of land to build on.	
			<i>Staff Review</i>	This property is much larger than most found within City limits as it was recently annexed from Bannock County. It's important to note that staff found various cases of similar situations that had their variances approved given the large amount of land.	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	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>Applicant Response</i>	Garage is needed to store equipment that will be used take care of the 7 acres of land.	
			<i>Staff Review</i>	Being annexed into the City has changed the rules for this piece of property. The goal is to find balance in permitting the land owner to utilize their property while beautifying our community	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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>Applicant Response</i>	The undue hardship did not result from previous actions or actions of the current owner who inherited the 7 acres that's been in his family for over 50 years. The hardship is due to the land being annexed into the city last summer which is now restricting the owner to build a shop that will be large enough to house equipment to take care of the 7 acres.	
			<i>Staff Review</i>	The land owner did not elect to be annexed. This being noted, all residents of Pocatello are subject to the same standards.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.160.F5	The applicant shall demonstrate that the proposed variance does not adversely affect adjacent/nearby property.	

