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CITY OF DOVER – BUILDING AND PLANNING DEPARTMENT

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**STAFF REPORT
DOVER PLANNING & ZONING COMMISSION
FILE #ZC02-21
CZAP ZONE CHANGE REQUEST**

PREPARED BY: Lisa Adair
Assistant Contract Planner
Ruen-Yeager & Associates
219 Pine Street
Sandpoint, ID 83864

PROJECT DESCRIPTION: Request to amend Dover official zoning map from Residential to Commercial for three parcels totaling 8.162 acres.

PROJECT LOCATION: The site is located at 25820 and 25822 Highway 2. The property is located in Sections 29 and 32, Township 57 North, Range 2 West, B.M.

APPLICANT: Kelly and Albert Czap
P.O Box 555
Dover, ID 83825

DATE APPLICATION RECEIVED: January 25, 2021

HEARING DATES: Planning & Zoning Commission: March 4, 2021
City Council: Pending

LEGAL NOTICE PROVIDED: Newspaper notice for P&Z: February 12, 2021;
Notice mailed to political subdivisions, media, landowners within 300' of subject tract, school district, and airport manager: February 12, 2021;
Site posted: February 22, 2021.

STAFF REPORT ATTACHMENTS: Application
(Under separate cover) Rezoned site plan & vicinity map
Portion of Dover Official Zoning Map
Summary of Comprehensive Plan Goals and Objectives
Public comments
Agency comments
Commercial use table

PROJECT SUMMARY:

Kelly and Albert Czap are requesting approval for a rezone to Commercial for three adjacent parcels that are the site of the facility formerly known as the Thorne Research Center. The properties are divided by Commercial and Residential zoning, and the applicants are requesting Commercial zoning for the parcels. The subject parcels total 8.162 acres and are located at 25820 and 25822 Highway 2. The existing commercial building was used for the manufacture, storage, and sales of dietary supplements and was permitted in 1996 by special use permit. The applicants are now seeking a zone change so that the zoning of the entire property matches its current use and does not delay or discourage a future sale of the property, according to the application.



Subject Properties

Chapter 5 of Dover City Code (DCC) outlines the city's five zoning districts. The purpose of the existing zone and the proposed zone are as follows:

- The Residential zone (Section 12-5-1A) allows moderately high density lots, where residential pursuits can be achieved. Limited commercial activities are available. City water, sewer, and paved roads are to be available. Appropriate land use designations (comp plan map) are residential, suburban, or rural residential.
- The Commercial zone (Section 12-5-1E) is designed for areas suitable for directly serving the public, including retail, service shops, restaurants, bars and entertainment centers. Also suitable for limited production and manufacturing. The purpose of the district is to encourage development that is "clean, quiet and free of noise, odor, dust and smoke." Planned unit developments are encouraged. All urban services are expected. "Adequate existing transportation systems and existing urban services should be considered when rezoning lands to commercial." Lands not needing extension of services and roads should be considered first

The city provided notice of the proposed amendment to taxing districts within Dover’s boundaries and to the airport manager, as required by Idaho Code. In addition, the city requested review and comment from affected agencies on February 4, 2021. The agencies contacted and their comments are as follows:

- **Dover City Engineer:** Dover City Engineer Jay Hassell responded that RPD04860000AA is landlocked and cannot be served by Dover’s water or sewer system without an appropriate easement allowing city and utility access. This parcel is 0.092 acres and is vacated right-of-way. He also noted that the septic tanks serving the lot will need to be sized appropriately for any change of use. Regarding access, he notes that access is not currently provided by a City of Dover jurisdictional right-of-way and deferred to the Idaho Transportation Department for any comments regarding access.

- A request for comment was also sent to Avista utilities, Panhandle Health District, Selkirk Fire, Bonner County GIS, the Idaho Department of Transportation, and the Independent Highway District. Comments were not received from these agencies at the time of this report.

PUBLIC COMMENTS:

Several written public comments have been submitted to the record at the time of this report. The written testimony opposed the zoning map amendment, based upon concerns that change would allow uses that do not fit the neighborhood, could affect traffic and noise, and do not allow the city a thorough review and approval of future uses. All written public comments submitted at the time of this report are attached.

STANDARDS REVIEW:

Standards Review Table- Dover City Code and Idaho Code (see applicable codes above)
<p>Idaho Code §67-6511 and Idaho Code §67-6509 provide procedural requirements for the adoption, amendment, and repeal of zoning districts. Requests for zoning map amendments are to be submitted to the Planning and Zoning Commission for evaluation to <i>“determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. An amendment of a zoning ordinance applicable to an owner’s lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.”</i> After consideration of the comp plan and other evidence from the public hearing process, the P&Z may make a recommendation to the governing body to approve or deny the request. The governing body shall <i>“analyze the proposed change to ensure it is not in conflict with the policies of the adopted comprehensive plan or would result in demonstrable adverse impacts upon the delivery of services, including school districts, within the planning jurisdiction...”</i></p> <p>Dover City Code (DCC) 12-9-4 requires zoning map amendments be in accordance with the general and specific goals and objectives of the adopted comprehensive plan. Zoning maps are amended by the adoption of an ordinance by city council.</p>
Findings, Based upon evidence of record
<p>Required: Publish notice of hearing at least 15 days prior to the public hearing in the official newspaper, in accord with IC§67-6509.</p> <p>Provided: Notice was published February 12, 2021 (20 days prior to hearing).</p> <p>Required: Mail notice at least 15 days prior to public hearing to the media, political subdivisions</p>

(taxing districts), school district, airport manager, and landowners within 300 feet of the subject land, in accord with IC§67-6509.

Provided: Notices were sent 20 days prior to hearing for all entities.

Required: Notice shall also be posted on the premises not less than one (1) week prior to the hearing, per IC§67-6511.

Provided: The site was posted February 22 (10 days prior) in accord with IC§67-6511.

General and specific goals: Any proposed amendment to the official zoning map must be judged to confirm the rezone is not in conflict with the adopted comprehensive plan (IC§67-6511) and in accord with the general and specific goals and objectives of the adopted comprehensive plan (DCC 12-9-4B.)

Goals and policies are listed in each of the 11 sections of the adopted plan. A summary of the Plan's goals and policies has been provided to the governing bodies, along with copies of the adopted Plan. The comp plan policy sections and a summary of the relevant policies are noted, along with corresponding facts, as follows:

1. **Historic/Archaeologic:** Preserve cultural sites; educate residents; celebrate Dover history. The proposed map amendment does not propose to convert historic buildings or properties.
2. **Population:** Adequate plans and service capacity for future populations; seek full-time residents; diverse housing stock; affordable workforce housing; develop services and amenities for visitors and high quality of life for residents.
3. **Community Design, Land Use, Economic Development:** High quality of life; small-town character; small-scale retail, commercial, and public amenities in Historic Dover, Dover Bay and city complex; no large scale, regionally serving or national brand retail or commercial uses; encourage and enable development of locally serving commercial & retail; discourage or restrict development of large scale retail or commercial uses; ensure new development does not negatively impact safety, health and environmental quality of Dover.
4. **Transportation and Airports:** Speed limits, safety, gateway attraction, bus routes, infrastructure for all uses.
5. **Utilities – Transmission Corridors:** Sufficient, reliable utilities to support growth; improved broadband speed; adequate sewer and water; new development to bear costs of extending services; underground utilities where possible.
6. **Recreation:** Public spaces support; new development to provide recreation amenities; connections to waterways; trail development.
7. **Public Services:** Maintain/enhance fire service levels; security for large events; neighborhood watch; support of sustainable amenities.
8. **Education, Schools and School Transportation:** Work cooperatively with school district; communicate regarding pending zone changes and development.
9. **Natural Resources, Special Uses or Sites – Agriculture:** Minimize effects of development on environment; control stormwater; preserve sensitive areas; preserve working lands; protect rare or endangered flora or fauna.
10. **Hazardous Areas:** Protect residents from high risks of flooding, wildfire, landslides; air quality maintenance; hazardous spills; regulate new development in floodplain.

11. **Private Property Rights:** Ensure policies, restrictions, conditions, fees do not violate property rights or create unnecessary technical limitations on use of property; consider fundamental rights of all parties in decisions when adopting and applying planning policies and zoning standards.

The Comprehensive Plan map designation for the two larger parcels is Mixed Use. The third parcel (RPD048600000AA) is Small Lot Single-Family Traditional. According to the Dover Comprehensive Plan, the Mixed Use designation envisions a “variety of uses from light industrial to small-scale, locally serving commercial/retail ventures and community centers.” Full municipal services, paved roads, and pedestrian access are expected in Mixed Use designated areas. The site is currently served by city sewer and water and has access from Highway 2, a paved public road.

Goal 3.G.8 of the Comp Plan: Calls for appropriate reuse of the Thorne Industries building.

Implementation #8 of the Community Design, Land Use Section of the Plan states: Support reuse of the Thorne Industries building. Work with ITD and the property owner to explore reconnection to Historic Dover by trail on ITD right-of-way and other changes that would make the site more attractive to prospective tenants. In the long-term explore reconfiguring the entrance on Highway 2 with ITD, BCATT and property owners to reconnect Historic Dover with these properties by vehicle and improve safety at the highway entrance.

STAFF ANALYSIS:

Dover’s Commercial zone was established to allow for retail, service shops, restaurants, bars and entertainment centers, as well as limited production and manufacturing through the special use permit process. The purpose of the district is to encourage development that is “clean, quiet and free of noise, odor, dust and smoke.” Future use of this property would be addressed by Dover City Code use standards and procedures and by modification of the current special use permit.

Following the public hearing, the Dover Planning and Zoning Commission may: recommend approval of the rezone; continue the hearing to date certain for specific reasons; or recommend denial of the rezone.

DRAFT MOTIONS FOR GOVERNING BODY:

MOTION TO RECOMMEND APPROVAL: I move to recommend approval of this file ZC02-21 to rezone 8.162 acres from Residential to Commercial, finding that it is in accord with the procedures and standards of Idaho Code and the general and specific goals and objectives of the adopted comprehensive plan, as enumerated in the findings and standards table of the staff report because [INSERT YOUR REASONS FOR WHY THIS IS IN ACCORD WITH THE STANDARDS AND COMP PLAN.]

MOTION TO CONTINUE: I move to continue this file ZC02-21 to [date, time, and place] to allow for additional time for [public comment, additional information, revisions etc.].

MOTION TO RECOMMEND DENIAL: I move to recommend denial of this file, ZC02-21 to rezone 8.162 acres from Residential to Commercial, finding that it is not in accord with the procedures and standards of Idaho Code, because [SPECIFY WHAT STANDARDS THE AMENDMENT FAILS TO MEET AND WHY].