

March 5, 2013

7:00 p.m.

Planning Division  
Council Chambers

**MEMBERS PRESENT:** Commissioners Natalie Black, Doug Branson, Jake Cordova, Donna Cosgrove, Brent Dixon, David Hodder, George Morrison, Leslie Polson, George Swaney, Dee Whittier, and Margaret Wimborne.

**MEMBERS ABSENT:** Commissioner Karst.

**ALSO PRESENT:** Planning Director Renée Magee, Assistant Director Brad Cramer, Recording Secretary Debra Petty, and 45 interested citizens.

**CALL TO ORDER:** Chair Cosgrove called the meeting to order at 7:05 p.m. and reviewed the public hearing process.

**MODIFICATION TO THE AGENDA:** Wimborne said agenda items will be in the following order: the annexation and zoning of 35.4 acres for an events center on Pioneer Road; an annexation, initial zoning and mobile home park, Hodson Addition; a conditional use permit for an insurance office in Gustafson Park Addition; and conditional use permit for Odyssey Charter School in Crow's Addition.

**MINUTES:** Commissioner Cordova moved to approve the minutes of February 5, 2013, with corrections. Motion seconded by Commissioner Dixon and passed.

#### **PUBLIC HEARINGS:**

**Annexation Prior to Platting, Initial Zoning of C-1, for 35.414 Acres, Section 26, T2N, R37E (Events Center).** Magee presented the staff report, a part of the record. The property is located south and east of Pioneer Road, west of Porter Canal, and north of Sunnyside Road. The proposed site is for the new events center. In the near future, a final plat and traffic study will be presented to the commission. The annexation and final plat will then be presented to the Council.

**Clint Boyle, 5700 E. Franklin Road, Nampa, Idaho.** Mr. Boyle said he represents Pioneer Properties and the Idaho Falls Auditorium District. Cindy Ozaki and Mark Fuller are present from the Idaho Falls Auditorium District. Ms. Ozaki represents the board and Mr. Fuller is legal counsel for the district. He said the new roadway, Event Center Drive, will connect Snake River Parkway to Pioneer Road. The developer is in negotiations with neighbors to acquire the necessary rights-of-way for Pioneer Road. He believes the event center will encourage further economic development for the area.

Chair Wimborne opened the hearing to public comment.

**Debbie John-Jillman, PO Box 52231, Idaho Falls.** Ms. John-Jillman asked if the county or city will maintain Pioneer Road. Magee said maintenance is worked out between Bonneville County Road and Bridge Department and the City street department on an annual basis.

Dixon referred to the comprehensive plan policies for location of commercial and regional centers to be one-half to one mile from major interstates and regional highways and asked staff to address the distance of the events center from interstate accesses. Magee said it is one-half mile whether approached from

Pancheri Drive or Sunnyside Road. An events center will draw traffic from Fremont County to Blackfoot. The site should be easily accessed from I-15.

**Kitty Seih, 1333 South Pioneer Road, Idaho Falls.** Ms. Seih said Pioneer Road no longer intersects Pancheri. Pioneer Road now goes under the newly constructed Pancheri Overpass and intersects Utah Avenue. She said the location is a mile to Sunnyside and one-half mile from Utah Avenue. Magee said Crane Drive will eventually tie into Pioneer Road creating a loop system.

Chair Wimborne closed the hearing to public comment.

**Polson moved to recommend to the Mayor and City Council approval of the annexation of 35.414 acres with initial zoning of C-1 to the Mayor and City Council as presented. Motion seconded by Dixon and passed.**

**Annexation, Initial Zoning of RMH and Planned Unit Development, Lots 6–11, Block 1, and Lots 1-3, Block 6, Hodson Addition and Woodruff Circle.**: Cramer presented the staff report, a part of the record. The annexation of 12.72 acres includes Woodruff Circle. The zoning request is for RMH. A PUD for a 47-unit mobile home park will also be considered. County planning staff believes the annexation of Woodruff Circle is a strip annexation. Cramer said state statute defines a strip annexation as land connected to a city by a shoestring or strip of land incorporating a railroad or highway right-of-way. The western boundary of this annexation request is contiguous to the city along 1,500 feet of the west property line. He said staff requested the annexation of the roadway for emergency access to the site.

Cramer said in a mobile home park the lots are leased rather than sold individually. The roads are private except for Woodruff Circle and the connector to Hawthorne Street. He said the units on Hawthorne Street do not meet the required setback for a public street, and the applicant is modifying the site plan by shifting the units further south to meet the requirement. The ordinance requires 100 square feet of outdoor storage for each lot, which is intended for RV's, campers, and other recreation vehicles. He said the one-acre storm pond and open area on the northeast corner is not functional for parking of recreational vehicles. The applicant is proposing two solutions: the first is two gravel areas on the north and south end of the emergency road providing about 5,000 square feet of storage area, and the second is rental by the tenants in the storage businesses across the street. Cramer told Cosgrove density is based on 9.69 acres and does not include Woodruff Circle. With a density of 4.85 units per acre, the park complies with the zoning ordinance.

Chair Wimborne opened the hearing to public comment.

**Kurt Roland, Eagle Rock Engineering, 1331 Fremont Avenue, Idaho Falls.** Mr. Roland said the layout on the lots south of Hawthorne Street were adjusted on the site plan to comply with the required setback on a public street. There are nearly two acres of green space to be used as storm retention and play area. He told Dixon the open space is one to one-half feet below grade. The developer prefers keeping the area as open space. He told Polson 5,400 square feet of enclosed storage is provided in the northwest corner of the site. He told Cosgrove the tenant has the option of using the storage provided or using the storage across the street at their own expense. Swaney told Roland the provided enclosed storage is compliant but not convenient for residents.

**Don Curran, 173 12<sup>th</sup> Street, Idaho Falls.** Mr. Curran does not believe taxpayers should have to pay for the development of Woodruff Circle and the open area is below grade which is an issue when storing RV's. Wimborne explained the RV's will not be stored in the open space.

**Eldon Halford, 454 Logan Drive, Idaho Falls.** Mr. Halford has a shop south of the site on Lincoln Road. He said the proposal is very sardine-like. His sister-in-law lives in a very nice double-wide and suggested the developer reduce the number of lots and accommodate a larger size home for a more appealing development.

**Kurt Roland, Eagle Rock Engineering, 1331 Fremont Avenue, Idaho Falls.** Mr. Roland verified the storage area will have a gravel base and be fully enclosed. Storage is not located in the open space. He told Polson construction of Woodruff Circle is required of the developer through an annexation agreement.

Chair Wimborne closed the hearing to public comment.

Dixon said the application is consistent with the comprehensive plan for higher density in the area and adjacent to a similar development. He said the application complies with the requirement for outdoor storage and believes the best use of the green area is for the residents.

**Dixon moved to recommend to the Mayor and Council approval of the annexation and initial zoning of RMH with a PUD overlay for Lots 6-11, Block 1, and Lots 1-3, Block 6, Hodson Addition and Woodruff Circle as presented. Motion seconded by Cordova and passed. Dixon moved to recommend to the Mayor and Council approval of the PUD for a 47-unit mobile home park, as presented. Motion seconded by Cordova and passed.**

**Conditional Use Permit for Insurance Office, R-3 Zone, Lot 24, Block 1, Gustafson Park, Division No. 3:** Magee presented the staff report, a part of the record. The applicant previously received a conditional use permit for a financial services office in unit four with the limitation staff on-site, including the applicant, be limited to three. Magee said the site plan from 2011 shows a handicapped parking space which has never been provided. Her recommendation is to make the handicapped parking a condition of approval. Cosgrove said Path to Health was largely mail order. With this application, the parking will be of greater concern. Magee said the applicant is providing four parking spaces as required; three in the garage and one handicapped stall.

Chair Wimborne opened the hearing to public comment.

**Kathy Hayes, 433 Palomino Drive, Idaho Falls.** Ms. Hayes is representing the applicant, Mr. Furniss, her employer. She said the office receives little traffic. Eighty-percent of business conducted by the owner is done off-site. Whittier asked where the occasional client will park when staff occupies the garage and there is only one stall for handicapped parking. Cramer said the Americans with Disabilities Act (ADA) allows an exception when handicapped parking takes twenty-five percent or more of the required parking. There are specific guidelines for stripping the stall but the stall may be used by others. Hayes told Morrison the owner is aware of the handicapped parking requirement and did provide a marked stall in the past. Magee said she was wrong earlier and the site plan shows five parking stalls. Three in the garage, a handicapped stall, and a client stall adjacent to the handicapped parking. Ms. Hayes told Swaney the only business conducted is the sale of insurance and securities.

**Lawrence Harrison, 3138 Westmorland, Idaho Falls.** Mr. Harrison opposes the request for a conditional use permit. Gustafson Park was designed as residential. The use is in violation of the restrictive covenants for the subdivision. Most residents want to keep the area residential. He said exceptions made in the past do not justify continued violation. Three of the units are residential and it

concerns him what this continued progression will bring. The sound wall along Sunnyside is a visual impairment to motorists turning right turn onto Rollandet and problematic when vehicles leave the site. Available office space in close proximity provides better access and parking. He told Polson he has never witnessed anything detrimental to the neighborhood because of the uses. If he had received written notification of the previous requests, he would have been opposed. He told Morrison the restrictive covenants include the property under consideration.

**Kathy Hayes, 433 Palomino Drive, Idaho Falls.** Ms. Hayes said traffic associated with the business is no greater than the residential units. Prior to Path to Health, this business was located in this location for ten years and it has only been two to three years since the insurance office left the building. Magee told Dixon the only difference with this request versus the one in 2000 is the addition of a fourth employee. She told Morrison residents of the condos enter and exit the driveway the same as clients. A right-hand turn only may not solve the traffic issue. Hayes said she did not know if Mr. Furniss signed restrictive covenants when he originally purchased the property. Swaney said, if there is a dispute between the property owner and the neighborhood association, it needs to be resolved prior to the city council hearing. Magee said the covenants are not enforced by the city. The neighbors are responsible for enforcing the covenants.

Chair Wimborne closed the hearing to public comment.

Whittier is familiar with the type of business proposed by Mr. Furniss. He said traffic is minimal. Cordova said there are differences in the location and zone of this property and that of Gustafson Park. Cosgrove said the use worked well for ten years and is a good repurposing of the site. Swaney expressed opposition until the issue regarding restrictive covenants is resolved and more neighbors are notified of the hearing.

**Cordova moved to recommend to the Mayor and Council approval of the conditional use permit for an insurance office on Lot 24, Block 1, Gustafson Park, Division No. 3, with the condition employees be limited to four. Motion seconded by Morrison. Aye: 10 Nay: 1 Abstain: 0.** Swaney favors granting the conditional use permit but voted in opposition because all residents bound by the covenants should have an opportunity to state their opinion directly to Council. The legal status between the applicant and homeowners association should be resolved or clarified prior to the public hearing.

**Conditional Use Permit for Odyssey Charter School, Lots 35-48, Block 45, Crows Addition :**

Wimborne recused herself as an employee of District No. 91 and turned the meeting over to Cosgrove.

Cramer presented the staff report, a part of the record. Staff proposed two changes to the site plan: the removal of three feet of sod east of the parking lot to accommodate ninety degree parking and the addition of a sidewalk and ADA ramp leading from the handicapped parking stalls to the northwest corner of the building and its main level. To separate the drop-off areas, the parent drop-off is located on 13<sup>th</sup> Street and the bus drop-off on Lee. The Public Works Division requests the adjacent alley be paved within three to five years of opening. Cramer said the program is intended for grades six through twelve. Few high school students are anticipated until students advance to a higher grade. He said the applicant did not provide enrollment figures: his estimated enrollment of two hundred students is based on the site plan. For junior highs, one stall is required for each classroom plus an additional five stalls. Senior high grades require one stall for every five students. With a projected enrollment of two hundred students, thirty-six spaces are required. The applicant is providing forty-six stalls. The landscaping on the west side of the parking lot will remain as a buffer.

Cramer told Dixon the original use of the building was a church. Polson said the comprehensive plan states secondary and middle schools are to be located within one block of an arterial. She does not believe traffic will move efficiently from Boulevard to the school without driving through the neighborhood. Cramer said the site is a block from an arterial: there will be some traffic through neighborhood. Cosgrove said Emerson had a cap on the number of students which was increased later. Cramer said parking and total square feet of the building will cap the number of students enrolled. The applicant is required to provide on-site parking but he did not know if the school will use a permit system. There is nothing to prevent on-street parking.

Chair Cosgrove opened the hearing to public comment.

**Graham Whipple, 205 W 13<sup>th</sup> Street, Idaho Falls.** Mr. Whipple represents Compass Academy. The school wishes to be in operation by the 2013 school year. The Petersons, as representatives of the board of the school, have looked extensively for a location. This site will anchor the neighborhood similar to what the renovation of O. E. Bell did for that neighborhood. The project does have challenges, but he believes approaching it in phases will make it workable. The building has two floors on each wing and three floors in the center of the building. Only the main floor is accessible to the handicapped. There has been some discussion regarding the installation of an elevator to increase functionality of the facility. Mr. Whipple said several feet of landscaping will be removed to accommodate the design of the parking lot. Buses will travel through the neighborhood in the same manner as buses in District No. 91. Four-fifths of the current enrollments have requested access to busing. The applicant wishes to control use of the alley with a fence, curbing, or bollards rather than pave the alley. He told Cosgrove, by limiting access to the alley, the impact on the alley by the school will be trash removal. Mr. Whipple told Polson handicapped accessibility and school operations are limited to the lower level until the school grows into other portions of the building. He told Black it is not known when or how future upgrades to the building will be accomplished. Busing will be contracted through a private service, not District No. 91. He told Black there will be future construction but is not known when and how it will be done. Dixon asked, if all 200 students drove to school, has the applicant ample parking.

**Chris Peterson, 3890 Taylor View Lane, Ammon.** Ms. Peterson serves on the board of directors for the charter school. She said a parking policy has not been finalized. They are considering the purchase of a parking permit by students that drive. This will involve a contract between the school and parent/student. Carpooling is encouraged. She said the school has no agreement with the district to provide lunches for the school. Lunches and busing for the school will go out for bid. The board is in the process of hiring a janitor, but students will have janitorial and grounds keeping assignments on a rotation basis. She told Cosgrove there will be evening events and after school programs but hours of operations are Monday through Thursday between 7:30 a.m. to 5:30 p.m. There are fiscal reasons for closing the school on Fridays. She told Black they will work with the building official for any internal remodels to the school. The building offers two performance spaces which is a very attractive addition. Dixon told Ms. Peterson he wants to know the maximum number of students, specific hours of operations with some flexibility for special events, and if there will be evening classes.

**Graham Whipple, 205 W 13<sup>th</sup> Street, Idaho Falls.** Mr. Whipple said he is not able to provide a solid number of students, but parking and required square feet per student under building and fire codes limits enrollment. The charter through the state allows for more students but the building can only accommodate about 300 students. Dixon wants to know the number of students as part of the commission consideration.

**Chris Peterson, 3890 Taylor View Lane, Ammon.** Ms. Peterson said they have a current enrollment of 121 students. There needs to be some flexibility with enrollment to meet budget constraints. The

preliminary numbers are: twenty-seven sixth graders, thirty-three seventh graders, twenty-six eighth graders, twenty-one ninth graders, and fifteen tenth graders. It is hoped they will be able to grow into the building as enrollment increases. Dixon asked where the estimate for 200 students came from and asked for a specific number for maximum enrollment. She did not know. Cramer explained his calculation was based on the number of parking spaces allocated to high school students on the site plan. He doubled the number to include middle school students. The applicant never provided a solid enrollment number.

**Graham Whipple, 205 W 13<sup>th</sup> Street, Idaho Falls.** Mr. Whipple said building and fire codes will dictate the number of students allowed in the building. He said, as students in the lower grades advance, high school students will rotate out. He believes the number of 300 is fairly accurate and the applicant meets the requirement for parking.

**Carl Peterson, 3890 Taylor View Lane, Ammon.** Mr. Peterson is one of the founders of the charter school. He said evening events are limited and fairly small. He concurs with Whipple's estimation of 120 senior high students and 180 middle school students. He asks special events be allowed until 10:00 p.m.

**Elizabeth Conrad, 195 12<sup>th</sup> Street, Idaho Falls.** Ms. Conrad gave the commissioners a list of her concerns, which is part of the record. She said road conditions on 13<sup>th</sup> Street are quite poor. The street is heavily parked with a large volume of traffic mornings and evenings. The enrollment capacity chart projects 700 students after five years of operation. This will be a huge impact on the neighborhood. She said there is not adequate outdoor space for the number of students. Those with special needs will require additional staff and parking.

**Steve Brown, 256 E 13<sup>th</sup>, Idaho Falls.** Mr. Brown said his mother, Carlene Brown, is unable to attend the meeting. He read her letter dated March 5, 2013, into the record. He is concerned the notice for the public hearing is not adequate. He lives one-half block from the school at 256 13<sup>th</sup> Street and he did not receive notice of the hearing. The distance for notices was not adequate for a neighborhood established in the 19<sup>th</sup> century. The neighborhood roads are narrow, and traffic is slowed between Boulevard and Holmes. He fears the neighbors did not understand the request is for junior and high school. He asks the commission to review the actual charter filed with the state. The comparison with the proposed charter school to O. E. Bell is not accurate. O. E. Bell is being used as office space. The petition lists several other properties under consideration by the applicant better suited for a charter school. He is in favor of revitalizing the building but not with the use as proposed.

**Gina Hague, 167 12<sup>th</sup> Street, Idaho Falls.** Ms. Hague does not believe the school is the right use for the building. Parking on both sides of 13<sup>th</sup> Street makes it difficult to navigate. The bus loading area on Lee will make it especially difficult on the side streets. The parent drop-off to is not adequate for the number of students. She opposes the project.

**Spencer Anderson, 245 13<sup>th</sup> Street, Idaho Falls.** Mr. Anderson said he agrees with the comments by Mr. Brown. Traffic is intense between 7:00 and 9:00 p.m. It takes him between five and ten minutes to exit his driveway after 5:00 p.m. The additional traffic will only make the situation worse.

**Don Curran, 173 12<sup>th</sup> Street, Idaho Falls.** Mr. Curran concurs with previous comments by the neighbors. He is asking for denial as the neighborhood cannot take the influx and the burden it will be on current utilities.

**Carl Peterson, 3890 Taylor View Lane, Ammon.** Mr. Peterson said the school draws from a fifteen mile radius. This alone makes it very expensive for students to drive. A bid for busing needs to go out if

they are to meet the fall deadline. It is hard to predict what will happen in the next few years. If the school grows more than the site can accommodate, they can look at other alternatives. Students will not leave the building for outside recreation.

**Graham Whipple, 205 W 13<sup>th</sup> Street, Idaho Falls.** Mr. Whipple said the length of the parent drop off is 285 feet. At twenty feet per car, there are fourteen available spaces. Swaney said he is most concerned with the number of students enrolled. The conditional use permit is not based on the maximum number of high school students but on total enrollment. There should be a cap on the number of students as a condition for approval.

**Carl Peterson, 3890 Taylor View Lane, Ammon.** Mr. Peterson said he anticipated a cap on enrollment as a condition.

**Chris Peterson, 3890 Taylor View Lane, Ammon.** Ms. Peterson said the numbers given are correct but not presented accurately and she does not want the public to be concerned. Swaney suggested tabling the conditional use permit until the applicant is ready to provide enrollment numbers.

**Graham Whipple, 205 W 13<sup>th</sup> Street, Idaho Falls.** Mr. Whipple said the number is dictated by the allowed parking. He still believes the site can adequately serve 300 students and meet the parking requirement.

**Carl Peterson, 3890 Taylor View Lane, Ammon.** Mr. Peterson said the building needs a number of substantial improvements. Capping enrollment at 200 students is fiscally unsound. He said charter schools with an enrollment of 200 or less have higher rate of failure. Peterson told the commission a limit of 225 is acceptable so long as it possible to amend conditional use permit. Branson does not believe Emerson is a good comparison as it is not the same type of school. Dixon believes there some similarities between the two schools in terms of parking and enrollment. He is not ready to act on the request until the applicant provides them with firm enrollment numbers. He asked staff to provide more information regarding the conditions placed on Emerson and examples of other conditional use permits granted to schools. Whittier suggested having a traffic impact study done. Cramer said he has counts available from the Institute of Traffic Engineers. According to their studies a junior high school has 0.53 peak hour trips per student while high schools have 0.41 trips per students.

**Chris Peterson, 3890 Taylor View Lane, Ammon.** Ms. Peterson said they want to be a good neighbor and making a good decision is important. They were approved by the state on December 31, 2012, and are faced with time constraints. The target opening is August 2013. They want to make the location work but there are other available options. Pushing the hearing back on this location delays the options on other locations.

**Spencer Anderson, 245 13<sup>th</sup> Street, Idaho Falls.** Mr. Anderson asked the city commit to doing two days of traffic counts on 13<sup>th</sup> Street. Cosgrove said she is well aware of the traffic concerns on 13<sup>th</sup> Street. Magee said she cannot commit resources to do a traffic count: Public Works does traffic counts. Bonneville Metropolitan Planning Organization may already have counts available for 9<sup>th</sup> Street and 12<sup>th</sup> Street.

Chair Cosgrove closed the hearing to public comment.

Dixon needed more information since the Planning Commission is the deciding entity. . Swaney said the applicant needs to provide enrollment numbers for the school. Polson said a cap of 300 students is

acceptable and the decision should be based on that number. Cordova said the neighborhood did not understand the enrollment numbers. Dixon said it is not the responsibility of the commission to engineer the applicant's application. Cosgrove asked the staff to provide the following information prior to the next hearing: student enrollment numbers, traffic counts for 9<sup>th</sup> Street and 12<sup>th</sup> Streets relative to peak hour, hours of operation, conditions placed on the conditional use permit for Emerson, examples of conditions from other schools, and photos of Emerson parking at various times of the day. Swaney asked staff if the notice of hearing contained the estimated number of students. Cramer the notice provides a general description. **Dixon moved to recess the conditional use permit for a charter school located at 187 13<sup>th</sup> Street to March 19, 2013, at 7:00 p.m. in the city council chambers at 680 Park Avenue. Seconded by Morrison and passed. Aye: 6, Nay: 2, Abstain: 0.**

**Business:**

**Election of Officers:** Polson and Black volunteered to serve as the nomination committee for election of officers. Names will be presented at the next meeting for approval.

**Discussion: Planned Unit Development.** Cramer asked the commissioners to answer a short questionnaire about changes they wish to see in the PUD ordinance. He asked the questionnaire be returned prior to the next meeting in preparation for discussion.

The meeting adjourned at 10:45 p.m.

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Debra Petty, Recording Secretary