

October 21, 2014

7:00 p.m.

Planning Department  
Council Chambers

**MEMBERS PRESENT:** Commissioners George Swaney, Brent Dixon, George Morrison, Natalie Black, James Wyatt

**MEMBERS ABSENT:** Kurt Karst, Donna Cosgrove, Margaret Wimborne

**ALSO PRESENT:** Planning Director Brad Cramer, Assistant Planning Director Kerry Beutler, Brent McLane and interested citizens.

**CALL TO ORDER:** Chair Swaney called the meeting to order at 7:10 p.m. and reviewed the public hearing process.

**Minutes:** No Minutes.

**Public Hearings:**

**Conditional Use Permit to Allow an LED Sign at a School: Ethel Boyes Elementary School.** Prior to McLane presenting, Black commented that she is an employee of School District 91, but since the applicant was Sign Pro and not the District, she would not recuse herself. McLane presented the staff report a part of the record. Morrison asked what the limitations on LED signs are. McLane indicated and read through the Requirements to Permit an Electronic Message Center as bulleted on the second page of the Staff Report. Black asked who would be considered the owner of the sign. McLane indicated that the school is operating the sign and as such, the operator would have to sign that agreement. Black asked what repercussions are allowed for not following requirements. McLane indicated if the owner does not comply after a request, they could be cited. Dixon asked how many elementary schools have these signs. McLane did not know the number, but knew a few schools did, including Sunnyside Elementary.

Swaney opened the Public Hearing.

**David Whitehead, Sign Pro, 6103 Bayhill, Idaho Falls, Idaho.** Applicant Whitehead stated the sign is a normal LED display. Whitehead believes that the school (Ethel Boyes) will own the sign. Dixon asked if Whitehead knew how many elementary schools in the area have the signs. Whitehead indicated that he was not sure, and further is not sure which schools are located within the City of Idaho Falls. Dixon asked about the placement of the sign being high up. Whitehead indicated the sign is located for the parents dropping their children off at school. The sign is to be read from the parking lot, not the street.

**Heidi Murray, 2184 Brentwood Dr., Idaho Falls, Idaho.** Murray appeared in support of the application. Murray was the PTO President last year. The new driveway allows for parents to line up along the parking area facing the school while they wait to pick up their kids. As such the sign, where located, can advertise to parents about upcoming events while they wait for their children. It will be a nice addition to the new school. Black asked if the sign is located in a place that the parents will be looking at

the sign, while kids are crossing in front of them. Murray responded that while dropping off and picking up children, you will not be staring at the sign instead of watching children. Additionally, the children are only allowed on a certain part of the sidewalk, and further, kids are not allowed to cross through that section of the parking lot.

Swaney closed the public hearing.

Morrison indicated that with this school it is a good situation because the school sits far from the street. Morrison asked where schools are right up against residential housing, will approval of this sign, set an inappropriate precedent for all schools to have a sign. Dixon added that he agreed with Morrison, as schools are guests in residential areas. Dixon added, that having a sign on a major arterial road, as is the case with high schools, is not as objectionable as having a sign in the core of neighborhood which is where the elementary schools are located. A sign across the street from a home will be an irritant, in a quiet neighborhood. Dixon indicated that if the Commission moves in favor of the sign, they need to be clear that this is a unique situation. Black asked if Idaho Falls High School got a Conditional Use Permit, as they are located on Holmes directly across from housing. Cramer indicated that the school did receive a Conditional Use Permit. Claire E. Gale was the last school considered for a Conditional Use Permit for a sign. Similar discussion was brought up with the other schools that received Conditional Use Permits for a sign. That is the reason for the requirements as listed on the Requirements to Permit an Electronic Message Center, including the hours of operations and the regulation that the signs are designed to not be viewable beyond 300 ft. Dixon is concerned with protecting the neighborhoods. Cramer indicated that if the sign is placed in the right location, most schools can be unobtrusive to neighborhoods. Swaney commented that the designed purpose for the Conditional Use Permit is to make sure that the conditions approved for the use of signs and other activities are prescriptive enough that the public is protected. Dixon asked about the need for the hours of use as being 7 a.m. – 7 p.m.

Swaney reopened the public hearing.

**Heidi Murray, 2184 Brentwood Dr., Idaho Falls, Idaho.** Murray indicated that school starts at 8:45 a.m. Students arrive by 8:30 a.m. teachers arrive 7:30 a.m. To have the sign off by 7:00 p.m. would be preferred, but the school would follow recommendations to turn sign off earlier if required. School ends at 3:00 p.m. and kids are gone by 4:00 p.m. There are some after school activities that parents bring kids to for some evening events around 5:00 p.m. or 6:00 p.m. Dixon asked about the events after dusk. Murray indicated that activities are held monthly from 6:00 p.m. – 8:00 p.m.

Swaney closed the public hearing.

Morrison indicated that applications are considered on an individual basis, but he is still concerned it will set a precedent for future applicants. Dixon asked the Commissioners about the possibility of setting restrictions on times of use being 7:00 a.m. – 7:00 p.m. or dawn to dusk, whichever is more restrictive. Wyatt asked why there is concern with the sign that is 300 ft. away, when there are light poles in the parking lot that are lit all night. Dixon indicated that the lights are shielded so they only shine downward and the lights do not change, as a sign display does. Swaney commented that dusk to dawn is a very subjective term and how that is interpreted would be more problematic and create more difficulties than it resolved. Wyatt asked about the parameters surrounding the Clare E. Gale sign. Black indicated that Sunnyside, rather than Clare E. Gale would be a better consideration as Sunnyside faces homes. Cramer stated that he is unsure of the restrictions for Sunnyside. Since that permit was issued there have been restrictions written for all schools. Cramer also pointed out that any LED in the City is required to have a

light sensor so the sign automatically dims and brightens at the appropriate times. Since standards have been implemented no brightness complaints have been received that he is aware of.

**Dixon moved to approve a Conditional Use Permit to Allow an LED Sign at Ethel Boyes Elementary School, Lot 14, Block 7, Skyline Terrace #5 . Morrison seconded the Motion. Dixon moved to amend the Motion to approve the Conditional Use Permit with the hours of use of the sign being restricted to 8:00 a.m. – 5:00 p.m. to minimize impact on the neighborhood. Morrison seconded the motion and it passed 3-1. Black opposed the motion as she does not believe a limitation on the time is necessary due to the comments from Cramer indicating that the sign is equipped with automatic dimming capabilities. The original Motion as amended passed 3-1. Black opposed the original Motion as amended for the same reason that she opposed the amendment to the motion.**

**Reasoned Statement of Relevant Criteria and Standards:**

**Morrison moved to incorporate into the Reasoned Statement of Relevant Criteria and Standards, the amendments to the Conditional Use Permit as approved. Dixon seconded the motion and it passed 3-1. Black opposed motion for same reasons as stated above.**

**Annexation with Initial Zoning of C-1 (Limited Retail Business): M&B: Approximately 2**

**Acres.** Beutler presented the staff report, a part of the record. Beutler explained for Morrison that the legal description for the road right of way was left out of the original annexation and as such, this application is to correct that error. The two recommendations for the property will be combined when passed on to City Council.

Swaney opened the public hearing. No applicant was present. Swaney closed the public hearing.

**Morrison moved to recommend to the Mayor and City Council approval of Annexation with Initial Zoning of C-1 (Limited Retail Business) for property located in the North ½, Southwest ¼ of Section 24 T2N, R37E being a portion of Pioneer Road. Dixon seconded the motion and it passed unanimously.**

**Annexation with Initial Zoning of I&M-1 (Industrial and Manufacturing): M&B: Approximately**

**368.308 Acres.** Cramer presented the staff report, a part of the record. Dixon asked about the small part of the parcel south of Yellowstone and wanted to know if there are any rail spurs that come off to serve that limb of property. Cramer indicated he is not aware of any rail spurs that are extended. Morrison asked if surrounding areas are County property and wanted to make sure that this annexation is not creating any islands. Cramer indicated there are no islands being created. Dixon asked if the County is aware of the request for annexation. Cramer stated that he spoke with all three County Commissioners and the County said it is a good thing for the City to have an inventory of I&M-1 properties. Cramer stated that this site has been considered for development in the past, but it was not annexed and did not have guaranteed access to utilities. This annexation does make the property more marketable and competitive. Dixon asked where the nearest utilities were. Cramer stated Yellowstone Hwy, State Trailer Supply has sewer and water and there is an old sewer line from an LID (Limited Improvement District) that connects with the system. Dixon understood that if something is annexed without a plat, it may be divided into pieces later, but if it is not divided into pieces later, would it ever come back to Commission or would development just proceed through Staff offices. Cramer indicated that by the Subdivision Ordinance this property would have to be platted before a building permit would be issued. Black asked about manufactured home sales becoming an island. Cramer indicated that there is no City to the south of site.

Swaney opened the public hearing. No applicant was present.

**Morgan Peterson, 4318 E 265 N, Rigby, Idaho.** Peterson appeared in support of the application. Peterson is a representative of the property south of Yellowstone Highway included in the request. Peterson stated that it is critical to future development and plans that the property is annexed.

**Linda Martin, Grow Idaho Falls, 151 N. Ridge, Suite A, Idaho Falls, Idaho.** Martin appeared in support of the application. Martin stated this is a project she has been working on for some time. This site was already zoned I&M in the County. The City would be consistent with what County already has but would allow access to utilities. This annexation would open the property up to companies that have jobs and can improve the tax base for the City. Martin continued to state, that if a company does not feel it has secure access to utilities then they will go somewhere else to purchase property. She would like to have the property with City utilities and be able to provide those opportunities to companies that would be able to put improvements on the property and create jobs.

**George Bidstrup, 2391 Eastview Drive, Idaho Falls, Idaho.** Bidstrup appeared in opposition to the application. He owns Bonneville Storage which is an adjacent property to the proposal and would like to know what the intended nature of the development will be. Bidstrup asked if the corridor adjacent to Highway 26 is intended to be developed into commercial property, rather than industrial or manufacturing, which as Bidstrup understands, is allowed in that zone. He also asked about the City's consideration of the county islands that are being developed. Cramer responded that he does not have any proposals as to nature of development. Industrial uses are being pursued for the site. The piece on south side of Yellowstone Hwy. has been discussed for storage units. Swaney clarified that the kind of development would be anything allowed within the proposed zone I&M -1 or HC-1. Cramer stated that with I&M – 1 development can range from retail and offices to industrial and manufacturing. Cramer discussed county islands, indicating that the City has been criticized for creating islands. Forced annexation is not something the City has engaged in. The State Statutes are pretty clear that any property that has not been divided into parcels of 5 acres or less is not eligible, is not a residential use, is completely enclaved by the City and as such, is typically not eligible for a forced annexation. Without connection to city utilities there is no reason to use forced annexation. Mr. Bidstrup also asked if the property is annexed as I&M without any proposed platting, then how is there a determination how the property is to be platted and do more hearings take place, can general public testify, and how will public be notified. Cramer responded that once the property is zoned, there is no more requirement for a public hearing for a plat. Plats are items of business, not public hearings, unless either the commission or staff determines it is appropriate to hold a public hearing to consider that plat, with one exception and that would be a preliminary plat. Preliminary Plats are required to have public hearing and anyone within 300 ft. of the boundary of that preliminary plat would be notified. If it moves right to a final plat, which would be unusual for such a large area, there would be no hearing.

**Linda Martin, Grow Idaho Falls, 151 N. Ridge, Idaho Falls, Idaho.** Martin stated that Idaho has a great respect for property rights and does not think that anybody likes forced annexation. If property owners want to stay in the jurisdiction they are in, it is allowed. Martin further indicated that part of this annexation is in the plan to help support the expansion of the electrical grid that they have been working together with Idaho Falls Power.

Swaney indicated he has been on the Commission for five years and has never seen a forced annexation come before the Commission. Dixon commented that he is not aware of any time that there has been a

forced annexation. There was discussion of one area in the City One reason the City was not interested in pursuing annexation of that piece of property, included the cost of buying out utilities. Dixon further commented that the main issue with an island is jurisdiction issues and the City and the County have worked out those issues in many cases. Dixon asked about the comprehensive plan and that this site and some additional land to north and east that are designated as rail road related industrial area. Cramer indicated that it is a new designation to this Comprehensive Plan in 2013. The effort was to look at areas that had rail access because there are only a few and protect them. Dixon added rail is a unique asset and asked what ordinance is in place that would require or encourage the use of the land for rail related applications, as opposed to an application that can be built on any I&M-1. Cramer indicated there is nothing in terms of ordinances and permitted uses that would prevent a non-rail related use from constructing in this area. Dixon asked if there is any intention on the part of the City to try to develop anything that would be more of an encouragement or restriction. Cramer stated there could be, as they are beginning the process of working to re-write a lot of zoning ordinance.

Swaney closed the public hearing.

Dixon stated that the portion of the parcel that is south of Highway 26 should be considered for a different zone such as HC-1. **Dixon moved to recommend to the Mayor and City Council annexation, with initial zoning of I&M-1, M&B 368.308 acres Section 4 and 9, T 2 N R 38E. Morrison seconded the Motion. Black moved to amend the original Motion to separate out the portion of the property South of Hwy 26, owned by separate owner and designate it to be zoned HC-1. Morrison seconded the Motion, and it passed unanimously. The original Motion as amended passed unanimously.**

**Text Amendments to Zoning Ordinance:** Cramer presented the staff report, a part of the record. These amendments are mostly housekeeping items. They address minor changes to the code. Black asked about the term “similar buildings”, Clubs, Lodges, Religious Institutions and Similar Buildings, what defines similar buildings. Cramer indicated that “similar buildings” has probably been in since 1967. Cramer added that someone would have to make the argument to the commission that it is a “similar building”. Dixon asked about the General Commercial Zone with no set back. He asked what the zoning for the development west and south of the river, which has no set back. Cramer indicated that area is CC-1 which is the same zone as down town. These are the only two zero set back zones. Dixon clarified and Cramer agreed that is only being proposed for CC and not GC. Dixon asked what is allowed in GC that is not allowed in CC. Cramer stated that coal yards, lumber yards, chicken hatcheries, creameries, milk stations. GC is a heavy commercial zone.

Dixon asked if 7-9-3 is part of RSC-1 and what is the minimum size for RSC-1. Cramer indicated it is RSC-1 and the minimum size is 2 acres. Dixon is concerned that it does not say that if you add Religious Institutions, that they’d have to go with conditional use permit, but actually could be right in the middle of residential development. Cramer indicated what needs to be considered is if you don’t want them in RSC-1, then you need to remove theatres, and commercial places of assembly should no longer be allowed as a use by right. RSC-1 does require any site plan to come back to commission for approval. Dixon indicated that his main concern is with lighting or traffic and that makes sense whether it’s a theatre or a church.

Dixon asked as stated in 2-1-55, why a fence would be located within a clear view triangle and then the fence would need to be opaque. Cramer clarified what is trying to be said is that a chain link fence with slats is not opaque, unless it is in a clear view triangle then it is considered opaque. Cramer will reword that paragraph. Dixon commented that on parking surfaces it is left open, by using the terms “or other”.

Cramer clarified that it states “or other as approved by the planning director and city engineer”. Swaney suggested that there is only one item that has any significant discussion as to needing re-work (opaque fence 2-1-55). Asked to entertain a motion to include all recommended changes with the exception of 2-1-55.

Swaney opened the public hearing.

Swaney closed the public hearing.

**Dixon moved to recommend to the Mayor and City Council approval of the amendments to Zoning Ordinances as presented with the exception of 2-1-55. Black seconded motion, and it passed unanimously.**

**Miscellaneous:**

**Bonneville County Planning Commission Report:** Swaney reported that the County has had similar issues as the City is having with subdivision ordinances and revision of lot sizes in replatting. Swaney commended staff for their communication with commissioners so the County is well advised with the most recent annexation from this evenings meeting. Cramer added that there is no firm schedule for a joint meeting. The County is proposing November 12, but as of last count, there is no quorum to facilitate the meeting.

Next meeting for Planning Commission is November 5, 2014.

Swaney adjourned meeting at 9:15 p.m.

Respectfully Submitted,

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Beckie Thompson, Recorder Secretary