

July 7, 2015

7:00 p.m.

Planning Department
Council Chambers

MEMBERS PRESENT: Commissioners George Morrison, Brent Dixon, Natalie Black, Donna Cosgrove, Margaret Wimborne, Darren Josephson, Joanne Denney, George Swaney.

MEMBERS ABSENT: James Wyatt

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

CALL TO ORDER: Chairman Morrison called the meeting to order at 7:00 p.m. and reviewed the public hearing procedure.

Modification to Agenda: There were no modifications to the Agenda.

Minutes: Cosgrove moved to approve the minutes of June 2, 2015, Josephson seconded the motion and it passed unanimously.

Public Hearings:

1. Annexation with Initial Zoning of GC-1 (Heavy Commercial) for a Printing Facility: 6.6 Acres, Section 24, T 2N, R 37. Beutler presented the staff report, a part of the record.

Morrison opened the public hearing.

Applicant:

Jeff Freiberg, 946 Oxbowe Lane, Idaho Falls, Idaho. Freiberg indicated that Travis Waters is the owner of the property and the owner of Print Craft Press. Freiberg stated that Mr. Waters is making plans to move out of his current location in February and build his new Print Craft Press building in this location. Freiberg showed slides of the existing Print Craft Press building. Freiberg indicated that the current zone in the County would accommodate this building. Freiberg indicated that Mr. Waters would like to annex into the City so he could hook onto City services. Freiberg indicated that City Staff has recommended a 30' wide buffer. Freiberg stated that Waters is proposing a 20' buffer from the north property line to the building. Freiberg stated that they propose putting evergreen trees along the property line in spaces that buffering needs to be, or where there are not already trees and buildings that are acting as a buffer. Freiberg showed a slide of the proposed site which is 800' x 334'. The first building on the site would be 60' off the road to the east and 20' off the property line to the north and will have a footprint of 300' x 100'. There will be room for more buildings on the lot and a plat will be submitted showing where the other buildings would go. Access agreements and easements will be given through the property to access the different buildings that would go on that site. Freiberg stated that there is

existing buffering along the north property line which is made up of trees, fences, out buildings and the back of houses. Swaney asked if they were taking credit for the trees and structures that are not on applicant's property, for buffering that is required of applicant. Freiberg stated that it is already existing. Swaney stated that it is existing on the other property. Freiberg stated this is Mr. Water's counter-proposal to the City's buffering proposal. Dixon asked if the trees along the property line were on the neighbor's property. Freiberg stated that the trees are encroaching onto the property, and all over the place. Dixon asked where the property line is. Freiberg stated it is along the fence line and pointed it out on an aerial. Freiberg stated that the backs of those buildings could be used as a buffer. Freiberg stated that a 30' landscape easement with 6' high berm is extreme and he does not think there is a buffer like that in town. Dixon asked what kind of fence applicant is proposing for the buffer and what would be on the ground underneath the trees. Freiberg stated that landscape rock would go under the trees with maybe an opaque vinyl fence or maybe a block wall, not a chain link fence. Freiberg stated a block wall would be sturdier and better for the area than a vinyl fence. Cosgrove asked if the proposal was a 20' buffer with trees 15' from property line. Freiberg stated that the buffer proposal is 20' from the residential owner's property line, use large caliber 10" trees to fill in gaps in the existing buffer. Cosgrove asked if the trees would be placed where there is not a building. Freiberg stated that the fence would run down the entire length of the property and be set 10' away from the property line. The trees would be inside the fence at random places where there is a need for more buffering along the property line. Black asked if the fence would be along the whole property line or the building line. Freiberg stated the fence will be along the property line. Freiberg pointed out the zoning currently in the area, including, commercial and county residential. Freiberg stated this property lends itself to commercial as it is right next to the freeway and no residential developers will step up to propose a residential construction in this site. Freiberg stated the building will be nice looking and will be a good addition to the area. Cosgrove asked if the property owner would maintain the land outside of the fence where there is a 10' space. Freiberg stated that he would take care of the weeds, the trees and wall. Josephson suggested that the 8' fence be a block fence for noise and long term construction. Josephson asked for clarification as to the location of the fence whether it would be on the property line. Freiberg indicated that the fence is 10 feet from the property line. Josephson clarified and Freiberg agreed that there would be landscape rock from the property line over to the fence and then the trees after that. Freiberg stated that the whole 20' buffer would be landscape rock with trees randomly placed. Josephson asked if there was a sewer trunk line in the area that would be adequate for this property and the waste water that would be created. Freiberg showed where the sewer services were located and showed that they would need to be extended and connected. Freiberg stated that if the annexation is approved applicant would have to upgrade Colorado Ave. with curb, gutter and sidewalk. Wimborne asked Freiberg to highlight where the trees would be placed. Freiberg showed that in the adjacent residential area if the adjacent property has trees or the back of a building on the property line then the applicant would not put trees in that location on applicant's property. Cosgrove asked what the buffer for the western boundary would be. Freiberg stated that nothing is proposed or thought out for the western boundary. Freiberg added that if there is a park that is built in that area, applicant would probably put trees and grass to match up with it. Morrison asked if the 10' set back of the fence has any relation to the alley way or access that was requested by property owners. Freiberg stated that the applicant is not platting the property to permit any access along the north boundary. Cramer stated that the

building in the proposal sketch is not an existing residential building, rather it is the proposed Print Craft Press building. The order of landscape buffering would be current residential, trees, fence, gap between fence and Printcraft press building. Dixon stated that the handout indicated that the docks will face north. Dixon asked how they propose to fit a loading dock in the 10' area between the building and the fence. Freiberg stated that there is some work to do on the building plan and the loading dock cannot face north. Freiberg stated he contemplated the docks facing east and west. Cosgrove asked about security lighting. Freiberg stated that the security lighting would be facing downward and minimal. Cosgrove asked about 24 hour lighting in the parking lot. Freiberg stated that there might be a few night lights on the building or on standards to direct the light southward. Black asked if there were landscaping plans for the front of the building. Freiberg stated that they will landscape based on the zoning ordinance. Beutler indicated that the GC-1 does require a 15' landscape strip with trees on 40' center along the frontage adjacent to Colorado. Cosgrove asked about the staff recommendation about the 6' berm on both the north and west side. Beutler stated that the west side was recommended because of the possibility of a park area. Cosgrove asked about instances in the City where buildings are built right up to the property line. Cramer stated that the building that is similar is on Fremont Ave. near the Pit Master BBQ. There was a proposal to build a multi-tenant building there in the PT Zone and it does require buffering. There was zero setbacks on the neighbor side and the buffer was that the developer was going to build a new fence for the property owners and trees where feasible. Swaney stated that he has never seen a buffer include buildings and trees of the other property owners. Cramer stated that he is not aware that it has ever been done. Cramer added that the reason that the Staff stuck with the recommendation is there is no control over the other side of the property, and if the building or trees are removed then the buffer is gone and no recourse to replace it. Cosgrove clarified and Freiberg agreed that the fence would be along the whole northern property line, and the trees would be filling in gaps. Beutler asked about Mr. Water's proposal that indicted using a chain link fence. Beutler stated that he told Mr. Waters that the City did not recognize a chain link fence as an opaque fence or something that would work with the buffering. Beutler wanted to make sure it was clear that chain link was no acceptable. Dixon asked why GC-1 was chosen. Beutler stated that GC-1 is the first zone that would allow for the printing company. Dixon asked what else is allowed in GC-1. Beutler listed uses as: wholesale and distributing uses, warehouses, laundry plants, printing plants, machine shops, food preparation plants, milk distribution stations, bottling works, veterinary hospitals, parking, farm equipment assembly, mining machinery, chicken hatchery, hauling and storage, storage yards, stone cutting, coal and wood yards, hay and grain feed establishments. Dixon stated that ¼ of the property is being presented as the Printcraft Press building and the other ¾ of the property may developed by others. Beutler stated that the applicant is considering multiple lots with additional land for expansion of Print Craft Press, and also potentially for other uses. Beutler stated that some of the uses would not fit on this property. Black clarified and Beutler agreed that the City does not have plans to develop the property into a park at this time. Beutler added that the City is currently considering the option and looking at having the property appraised for commercial value as there has been interest to acquire the property for commercial uses. Cosgrove stated that without a plat it is difficult to look at buffering. Cosgrove stated that even though Print Craft Press will be a good use on that land, a chicken hatchery will not be, and more mature planning for the parcel might be helpful. Beutler stated that the buffering would not be developed as part of the plat. The buffering is a component of the zone district or part of the

annexation agreement. The buffering can be handled with what the applicant has presented. Wimborne asked if there was clarification on whether applicant had changed from chain-link to another kind of fence. Freiberg stated that he will have a discussion on what type of opaque fence Mr. Waters wants. Morrison stated that chain-link fences with vinyl slats do not count as buffering.

No one appeared in support of the application.

Opposition:

Graham Whipple, 205 W 14th Street, Idaho Falls, Idaho. Mr. Whipple is an architect that has worked in multiple states around the Country and he has several concerns. Mr. Whipple stated there is no apparent master plan to this property. There is no forethought as to how the remainder of the buildings that might go on the property will be situated. GC-1 use is an intense use and even though the neighboring residential is in the County, there is a responsibility to be good neighbors to the County. Mr. Whipple stated that you need to think of the height restrictions in a GC-1 zone. Mr. Whipple asked the Board to consider if you were in the residential neighborhood how would you feel about having a building of that allowable height within 20 feet of your property line. Mr. Whipple stated and agreed with Commissioner Swaney that there is no precedent set to use existing landscaping as part of a buffering. When a buffer is required it is on your property. Mr. Whipple stated that as an architect he would recommend that there would be more adequate planning on the parcel. Mr. Whipple stated that the 10' on the inside of the property should be 20' to allow for car traffic behind the building. Mr. Whipple stated that if there is not traffic behind that fence the rock wall will be a weed nuisance and garbage catch. Mr. Whipple believes the buffer should be 24' minimum behind the fence so there is a 34' buffer for the residential neighborhood. Mr. Whipple also would like it specified what the fence will be made out of as he believes a block fence is more appropriate than a vinyl fence.

Jeff Freiberg, 946 Oxbowe Lane, Idaho Falls, Idaho. Freiberg stated that there is not a master plan done as the property is 6 acres. Freiberg stated the intention is to place the new Print Craft Press building on this location and then design around that building later. Freiberg stated that with regard to other users with Print Craft Press as the main tenant, there will not be any chicken farms or auto yards built on the property. The other users will be facilities of like nature.

Morrison closed the public hearing.

Cosgrove stated that it is positive to have something come in this area. Cosgrove stated that GC-1 on the whole property troubles her because parcels get sold and change hands and the Board has to look to any possible future use. Cosgrove stated it is an unusual situation of buildings right up to the property line without any setbacks which puts a big need for appropriate buffering. Cosgrove agreed with Mr. Whipple about the building height being a problem. Cosgrove does think that landscape rock will collect weeds and trash and is hard to maintain. Swaney stated that the proposal that the staff made for the recommendation for the buffering (30') is what he believes the Board should require for the north side and the west side of the property. Swaney said that the buffering on the west side is important as there is no idea to whether the City will sell the property and it could become residential property and the time to put the buffering in is now. Swaney stated that the plan that is shown here, is nothing but a vision. Swaney stated that

what the Board is approving is simply an annexation and a zone. Swaney stated that the annexation agreement will specify a specific buffer that is consistent with the buffering that has been done in Idaho Falls. Dixon stated that on north Woodruff by WinCo there was a fully developed residential neighborhood to the north and the buffer used there is an 8' cinder block fence along the entire length. Dixon stated that is a visual barrier and any one in the residential neighborhood cannot see anything on the other side. Dixon stated that is the only equivalent he can think of in Idaho Falls. Dixon stated that property that is built right against the property line would not have been allowed if it was in the City and zoned R-1. Dixon is concerned with what will happen to the rest of the property which will affect more homes than the Print Craft Press building. Dixon stated that there is commercial to the south, the property to the west could be sold for commercial use and so this property would make sense to be commercial. Morrison reminded the Commission that once you zone a property it is hard to change the zone. Black stated that this property is in the County and if annexed to the City there is the buffer requirement, which gives the Commission some control. If the property stays in the County there is no control of the buffering. Cosgrove asked if there is an opportunity for 2 different zones in this parcel. Beutler stated that without a plat and without knowing what the boundaries are where would you draw the line. Cosgrove is uncomfortable with the GC-1 zoning, but does agree with Commissioner's Black statement about developing in the County and having no control. Dixon explained that no matter what goes in the area and what buffering is used it will dramatically alter the view that the residential homes currently have (bare field). Cosgrove stated that Commissioner Swaney's point of not relying on existing vegetation as the buffer is important to consider. Cosgrove stated that she would recommend that the trees be all along the northern boundary. Cosgrove is not concerned about the western boundary at this point. Josephson asked and staff confirmed that the Commission can require as part of the annexation that the fence be block. Josephson stated that the trees lining the fence is an appropriate buffer and he does not believe a berm is necessary. Josephson does believe the 30' set back is appropriate due to the height of the possible buildings. Cosgrove asked Commissioner Josephson how he felt about the trees as a requirement. Josephson stated that trees are necessary at some spacing, but does not feel that there is a need to double up where trees already exist on the adjacent property. Black stated her concern for setting a precedent of reduced buffering for future commercial in the area, if the residential was sold and commercial use put in its place. Swaney stated that the Commission needs to be careful to not set a precedent of allowing a property owner to take credit for buffering on another property. Cosgrove agreed with Commissioner Swaney that any buffering should be along the whole northern property line and it should be consistent along the whole edge. Wimborne stated that the current county zoning and the uses allowed within that zoning is what the City will allow in the GC-1 zone, so whether the property develops in the City or County, the uses can be the same. Dixon asked what the property to the south is zoned and asked if it is City or County property. Beutler stated that the properties to the south are in the County and zoned C-2 which is similar to the GC-1 zone. Beutler stated that the properties to the north are zoned NH in the County which is the mobile home zone. Black asked if there is any other zone that would allow the printing. Beutler stated that the next zone would be I&M-1 which would be more intense use. Cosgrove does not believe that additional buffering requirements need to be set for the western property line.

Cosgrove moved to recommend to the Mayor and City Council approval of the Annexation prior to platting with Initial Zoning of GC-1 for 6.6 acres, Section 24, T 2 N, R 37, for a Printing Facility with the following Stipulation:

- 1. All along the north border there is a minimum 30' wide landscape to include:**
 - a. 8' cinder block fence that is 10' from the northern property line;**
 - b. Landscaping trees are spaced at 20' centers all along the northern boundary.**

Josephson seconded the motion. Commissioner Dixon abstained from voting. The motion passed.

Dixon stated that he abstained because he is not sure what the appropriate buffer is for the area, and does not like the fence 10' away from the property line. Dixon stated that he agrees in general with the principal.

2. Rezone from R-2 (Residential 2, 3, & 4 Plexes and Day Cares) to R-3, (Apartments): Lot 35-48 block 45, Crows Addition. McLane presented the staff report, a part of the record. Dixon stated that R-2 only allows up to a 4 plex. R-3 allows up to 35 units per acre. Dixon asked how many units per building. McLane stated that it does not specify how many units per building it is simply 35 units per acre. Dixon asked if it was developed into condominiums the R-3 zoning would allow them to put in 10 or 12 units. McLane stated that the zoning ordinance would restrict that by the parking and buffering requirements. Dixon asked and McLane confirmed that this property is on the National Registry for Historical Buildings. Dixon asked if that hindered any ability to make changes to the property. McLane stated it does not limit the ability, however, if changes are made that are no in accordance with the requirements with the historical preservation, it would be removed from the Registry. Wimborne clarified and McLane agreed that with the increased density there is enough parking to support most of the uses that are outlined in R-3. Wimborne stated and McLane agreed that there are some uses that would require additional parking and that would be handled through a CUP. Wimborne stated and McLane agreed that the zone change provides new opportunities, but the parking still has to be met, so the uses will be limited. Black asked if there are parking requirements on a rest home, as it is one of the allowed uses. McLane stated that the parking requirements on a rest home are based on the number of beds.

Morrison opened the public hearing.

Applicant:

Tyler Price, 540 11th Street, Idaho Falls, Idaho. Mr. Price has been pursuing this property for over 3 years. Mr. Price stated that the property speaks to what the City is trying to do. On Boulevard from 17th Street to 1st Street there are over 20 businesses, schools, churches, estate agencies, etc. Mr. Price is not going to knock the property down. Mr. Price walked the Fire Marshall through the building and the Fire Marshall pointed out places where people have tried to start fires. There is vandalism on the inside that has been cleaned up. Mr. Price stated that the use he would like to use this building for would add to the area. Mr. Price compared this building to O.E. Bell building. Mr. Price lives in the neighborhood of this property and sees the potential of the property.

Support:

Stephanie Rose, 150 11th Street, Idaho Falls, Idaho. Ms. Rose had photos of the property. Ms. Rose stated she is a 30 year resident of the neighborhood and lives 1 block away from this property. Ms. Rose currently lives in a home that is on the historical registry that she has rehabbed and owns another home in the area that is also on the registry that she has rehabbed. Ms. Rose stated that her career is rehabbing buildings. Ms. Rose is passionate about this neighborhood. Ms. Rose stated that 25 years ago there was someone who wanted to buy the property shortly after the church moved out. The prospective buyer wanted to put 6 luxury condos and that would have required a re-zone. This building will be hard to repurpose and save. There are not very many people that have the money or vision to help this property. Ms. Rose stated that the vandalism to the building is getting worse. The windows are broken out and having to be boarded up. Ms. Rose hosted a meeting at her house and allowed the neighbors to tour the building and meet the Prices and listen to their plan. Ms. Rose stated that people were amazed at the viability of the building. Ms. Rose stated this building is savable, but can go downhill fast. Ms. Rose stated that the neighbors that toured the building were very supportive. Ms. Rose had photos of the building showing the vandalism that has taken place. Ms. Rose had a picture of the building being built. Ms. Rose had pictures of the O.E. Bell building prior to the rehabilitation of the building. Ms. Rose had pictures of the current O.E. Bell building. Ms. Rose stated that sometimes to adaptively reuse buildings there has to be a re-zone. Ms. Rose encouraged the board to re-zone.

Stephanie Cook, 250 12th Street, Idaho Falls, Idaho. Ms. Cook stated she is passionate about this project. Ms. Cook stated that proven business leaders have a vision for the building. Ms. Cook lives in the community and believes this building could be an economic plus if it is rehabilitated.

Brenda Nicholson, 234 12th Street, Idaho Falls, Idaho. Ms. Nicholson has a rental at 213 12th Street. Ms. Nicholson wants this building to be brought back and to stop bringing down the property values in the neighborhood.

Lisa Mitchell, 653 11th Street, Idaho Falls, Idaho. Ms. Mitchel has a rental at 263 E 14th Street. Ms. Mitchell has lived in the area for 8 years. Ms. Mitchell has noticed a drastic decline in the building over the last few years. Ms. Mitchell works for the Prices and sees what the Prices do to give back to the community. Ms. Mitchell can see the vision that the Prices have to make this a better community and a better environment for the neighborhood. Ms. Mitchell would like to see something like the O.E. Bell building happen in this neighborhood.

Hershil Mynarcik, 258 Walnut Street, Idaho Falls, Idaho. Mr. Mynarcik bought a historical home across the street from O.E. Bell 6 years before the rehabilitation of the building. Mr. Mynarcik stated that since the rehab of the O.E. Bell building his property values have doubled. Mr. Mynarcik believes a rezone in this area would help the neighborhood and will make the whole area look much nicer.

Graham Whipple 205 W 14th Street, Idaho Falls, Idaho. Mr. Whipple has lived in the neighborhood for 13 years. Mr. Whipple has taken youth groups through this building because it is on the Registry for Historical Buildings. Mr. Whipple is a member of the Idaho Falls Historic

Preservation Commission. Mr. Whipple stated that in the 13 years he has been in the area he has seen the degradation of the building. Mr. Whipple stated there are beautiful details on the building that will be lost due to vandalism. Mr. Whipple stated that the proposed re-zone will save this building. Mr. Whipple stated that there is the potential for 35 units per acre to go in this spot, but the parking restrictions would govern the use. Mr. Whipple stated that the long term benefits of saving this building through rezoning are huge. Mr. Whipple stated that this building is at a critical point. Mr. Whipple stated that 2 years ago there were very subtle hints, and now ceilings are starting to fall down and within a short time the ceilings will be lost and some of the historic integrity will be lost.

Lizette Fife, 270 E 13th Street, Idaho Falls, Idaho. Ms. Fife has lived down the street from the building for 2 years. Ms. Fife has a masters in architecture and loves this building. Ms. Fife hopes that the rezoning will go through so the Prices can start working on the vision they have for the building. Ms. Fife stated that the O.E. Bell building is a wonderful example of what can happen to a building with the right vision. Ms. Fife went through the building with Ms. Rose's group to tour the building. Ms. Fife believes that saving this building will preserve her house values down the road.

No one appeared in opposition.

Morrison closed the public hearing.

Swaney reminded the Board that there is no guarantee with a re-zone that the property will be restored, all that the Board is doing is re-zoning the property. Wimborne stated that due to the parking limitations she is more comfortable with the re-zone. Dixon stated that this property was looked at 20 years ago when he was on a private school board. Dixon recalled that there was a proposal for a charter school in this property a few years ago and one of the issues was parking and drop off that would disrupt the neighborhood. Dixon stated he was struck by the strong neighborhood support of the rezone. Dixon stated if the property is not rezoned it will continue to go further downhill. Cosgrove stated that she lived 6 blocks from this building for 20 years and loves the building. Cosgrove had concerns about a 35 plex going on the property, but is reassured by the notion that parking would be a limiting factor and supports the zoning to R-3.

Wimborne moved to recommend to the Mayor and City Council approval of the Rezone from R-2 to R-3 for Lots 35-48, Block 45, Crows Addition, Cosgrove seconded the motion and it passed unanimously.

3. Conditional Use Permit: Indoor Amusement for Lots 35-48, Block 45, Crows Addition.

Swaney asked if the Board can approve a CUP in an R-3 zone, before the City Council acts on the recommendation for rezoning to R-3. Cramer stated that the CUP is a recommendation as well, not an approval. Cramer stated that this CUP has to go to City Council.

McLane presented the staff report, a part of the record. Cosgrove asked if they can tear down the wood that is covering windows and put windows back in. McLane stated that is restoring it to its original condition, not altering. Cosgrove clarified and McLane agreed that the development timing standards would refer to the timing of whatever changes are necessary to start the attraction. McLane added that it specifies a time frame that they have to complete those

improvements within. Cosgrove asked what the current sign code allows for outdoor signage. McLane stated that it is 100 sq. ft. and no LED. Cosgrove asked and McLane confirmed that the sign can be lit. McLane stated there are no hours on the signage, but the Commission could put limitations on the sign. Swaney asked if the Fire Department has been consulted about the proposed use for the facility. McLane stated that the Fire Marshall has walked through the structure with the applicant. Wimborne asked and McLane confirmed that the Commission could make a requirement that the CUP be renewed on an annual basis instead of expiring after 3 years. Dixon asked what kind of buffering is envisioned. McLane stated there is not a lot of space for buffering. The requirement for schools and churches includes opaque fence or a landscape strip with an evergreen hedge that is opaque and would provide some buffering. That type of buffering could be along the alley and the western side of the property. Morrison asked what safety measures need to be taken before it can be opened. McLane stated that the building would have to go through the building permitting process and it would need a Certificate of Occupancy to use the building. The Fire Marshall and building official would have to inspect to see that the building was up to code and meeting the access requirements. Black stated that in the zoning that was just approved (recommended) it showed that no sign or display shall be used to advertise the retail services offered within the building. McLane clarified that is referring specifically to small retail that serves just the building itself. Black clarified and McLane agreed that they would not be allowed to paint the building black. Cosgrove stated and McLane agreed that they could restrict entering and leaving from 13th street so there was no alley access. McLane added that the buffering along the alley way would help to prohibit that access. Cosgrove asked if the CUP can be for part of the property in order to adjust the square footage that controls the parking requirements. McLane stated that if they are not intending to use the whole building there is a possibility that you could look at just the area that they are using for the attraction to make the parking requirement. Cramer clarified that the question asked by Cosgrove was dealing with the parking as part of the CUP. Cosgrove stated if they were going to use 1/3 of the building for the attraction would the parking requirement then just apply to the X Thousand square feet they will be using for their attraction. Cramer stated that could be a recommendation. Cramer added that in the legislature 3-4 years ago, there was a piece of legislation as to whether or not variances could apply within conditional use permits. Black asked if they could take out a portion of the landscaping to acquire more parking. Cramer stated that they will be required to maintain 20% of the site as landscaping or open space. Cramer stated that there is not enough space to remove enough landscaping to make the parking work and meet the standards.

Morrison opened the public hearing.

Applicant:

Tyler Price 540 11th Street, Idaho Falls, Idaho. Mr. Price stated that he is not intending to profit from the attraction. Mr. Price is not looking for donations to save the church, he is looking for ways to use the building to do the restoration back to where it once was. To accomplish the restoration Mr. Price has a bid of \$1 million. Mr. Price stated that as he met with the neighbors the question of parking was addressed. Mr. Price stated there is nothing he can do about parking and people will have to park on the street. Mr. Price stated there are options in terms of shuttling people over from a public parking down by the railroad, but he is unsure of how to force that system. Mr. Price stated that every dime that comes out of the attraction is going back into

restoration. Mr. Price stated that at the end of the 1st year he needs to exceed \$300,000.00. Mr. Price stated that if he does not earn the \$300,000.00 he is not interested in doing the attraction for another year. Mr. Price says his first step is acquiring the property from the owner in California. Mr. Price stated that if he acquired the property and after the first year the Commission revoked the CUP, then he is left holding the bag. Mr. Price needs to acquire the property with little risk and use it as it stands to then be able to turn it into what the long term vision is. Mr. Price stated that the long term vision of the property is to turn a portion of the building into a culinary academy and then the other portion of the building can be used for receptions/weddings, City meetings or WIFI Hackers lounge. Mr. Price stated that the neighbors were ok with the situation of parking as long as it is limited to a 5 week period and certain number of days a week. Mr. Price stated that as the building is restored it will work perfectly for the culinary academy. Mr. Price is bettering the community with education. Mr. Price believes the culinary institute will employ approximately 25-35 people and will add dramatically to the neighborhood. Swaney clarified that the ultimate goal is to develop a culinary school, but the immediate goal for the 3 years CUP and the theory is to raise \$300,000.00 over 5 weeks each year. Swaney stated that is \$60,000.00 a week. Mr. Price stated that a friend in Salt Lake City runs one the same time period and grosses \$4 million in 5 weeks. Mr. Price has no information to gauge what he can expect to earn in the Idaho Falls area with a haunted attraction. Wimborne clarified that Mr. Price needs \$300,000.00 each year for 3 years. Wimborne clarified that Price would not be interested in a CUP that has to be renewed each year. Price stated that he is not opposed to having to renew each year, but if after the 1st year of the haunted attraction his intent is to purchase the building and then if the next year the City did not give him the CUP for the attraction, now he is buying a building for \$360,000.00 and he is left with the risk. Wimborne clarified and Price agreed that the first year the \$300,000.00 is to purchase the building and the next two years is to raise the money to pay for the renovations. Wimborne asked and Price confirmed that if Price did not earn the \$300,000.00 in the first year he would not be interested in pursuing the project. Price said that ideally he would like to be done and raise the \$1.2 million in the first year and then he would have no reason to do year 2 and 3. Wimborne noted that the staff has recommended 15 different conditions, including some that would have some upfront costs as far as buffering. Wimborne asked if Price is able to do those recommendations. Price stated he has money committed to this project. Wimborne asked what the operating hours of the attraction would be. Price stated that his vision is a Tuesday, Thursday, Friday, Saturday, with Tuesday and Thursday shutting down at 10 p.m., Friday and Saturday shutting down at 11 p.m. Black clarified and Price confirmed that the building is not currently owned by Mr. Price. Price stated that he has permission from the current owner of the building to do the rezone. Black stated that if after one year Price decides not to do the attraction the CUP is still valid. Black asked if the CUP goes with the property. Cosgrove stated that the CUP does not transfer to another owner. Cosgrove asked about the outdoor Queue. Price stated that the parking lot will be the lineup Queue. Cosgrove asked if people are going to park in the parking lot. Price stated that this is where he is looking for a variance on parking, as the parking will be on the street. Price discussed the parking on the street with the neighbors. Price will encourage people to park in a public parking lot down by the railroad and be shuttled in. Cosgrove clarified and Price confirmed that the parking lot will be closed off and used for the queuing of the attraction.

Cramer read part of a statute dealing with Conditional Use Permits “Exceptions or waivers of standards other than use inclusive of subject matter addressed in Section (variance section including parking) in a zoning ordinance. Exceptions or waivers of standards in a zoning ordinance may be permitted through issuance of a special use permit or by administrative process specified by ordinance subject to such conditions as may be imposed pursuant to local ordinance”. Cramer stated that if you want to deal with the lack of required parking, rather than sending him to the Board of Adjustment for a variance, the law does provide that the Board can provide that as part of the CUP process.

No one appeared in support (initially).

Opposition:

Yan Scott, 125 E 14th Street, Idaho Falls, Idaho. Mr. Scott can see the church from his backyard. Mr. Scott is worried about traffic, noise and trash. Mr. Scott stated that the traffic will not all abide by the speed limit in the neighborhood. Mr. Scott is worried about the children and pets in the neighborhood. Mr. Scott stated that there will be a lot of noisy kids having a good time and the neighbors have to deal with that. Mr. Scott stated that they people at the attraction could vandalize the homes in the neighborhood and get out of control. Mr. Scott wants to know what is going to protect the neighborhood. Mr. Scott indicated that no one has addressed his neighborhood. Mr. Scott would like to see the church restored, but he wants reassurance that his quiet street stays quiet. Cosgrove asked Mr. Scott what he believed would be suitable times for the attraction. Mr. Scott stated that 10 p.m. on weekdays 12 on weekends. Mr. Scott stated that he would like measures put in place that protect the neighborhood from rowdiness. Cosgrove stated that rowdiness is hard to protect against. Cosgrove stated that there is no guarantee or promise that the teens will not be smoking at their car in front of the house. Mr. Scott stated he is worried about the speed of vehicles or kids being drunk and having fights at the attraction. Cosgrove clarified and Mr. Scott confirmed that he was comfortable with the hours of operation and the days of the week and the length of time the attraction will run (5 weeks).

John Belaff, 178 E 13th Street, Idaho Falls, Idaho. Mr. Belaff is across the street from the building and would love to see the building fixed. Mr. Belaff stated that the vision is great. Mr. Belaff stated that a haunted house in the neighborhood is a little much. Mr. Belaff stated that to generate \$300,000.00 at \$10/per person that is 30,000 people through that attraction. Mr. Belaff is worried about controlling the parking. Mr. Belaff stated that he would like to see the building brought up to standards prior to opening the attraction so the people are safe inside the attraction. Mr. Belaff believes there are better ways to raise the money to redo the building. Mr. Belaff is concerned about the noise from the attraction if he has his windows open.

George Bolland, 104 E 14th Street, Idaho Falls, Idaho. Mr. Bolland is not in favor or opposed. Mr. Bolland is concerned that it might create more of an attraction to the building in the “off season” for additional vandalism in the area. Mr. Bolland is concerned about the volume of traffic in the area.

Applicant: (Rebuttal)

Tyler Price, 540 11th Street, Idaho Falls, Idaho. Mr. Price stated that he will have cleanup crews. Mr. Price stated that speeding can happen at any time. Mr. Price stated that in terms of

noise, the 4th of the July the neighborhood was being lit off like crazy. Mr. Price stated he started off looking for investors and he could not get the support he needed. Mr. Price stated that the building will be secured during the off season and there will be an alarm system. Mr. Price stated that the vision is that Halloween ends and then contractors are coming in and the building will be secured. Mr. Price indicated that it will be a hassle, there is no way around it. The current owner has brought the price down from \$550,000.00 to \$360,000.00 and Mr. Price is trying to get it for less. Mr. Price still has to earn the \$800,000.00 to redo the building. Mr. Price does not think windows will be open in October, but it will still be loud. Mr. Price is trying to shrink the hassle and inconvenience. Mr. Price will have security on hand. Mr. Price will have radio ads that will specifically ask the patrons to be respectful to the neighborhood. Josephson asked how much of the building Price anticipates using for the attraction. Price indicated that the whole building will be used. Josephson stated that Price cannot get an occupancy permit until safety and the Fire Marshall have approved it. Price stated that he took the Fire Marshall through last year and had him point out specific areas that needed work. Mr. Price stated there are 5 exits to the building and there is an exit strategy in case of emergency. The Fire Marshall wants lights in certain places and all those things will be addressed. Cosgrove asked and Price confirmed that there will be merchandise for sale at the attraction.

Cosgrove asked staff if that selling merchandise is allowed within R-3. McLane stated that retail is allowed in RSC-1. Wimborne asked if staff had done a traffic study or parking study to get a sense of the impact. McLane stated that no study has been done. Wimborne asked if staff could do a study for this kind of use. McLane stated that it could and that might be something that the Board could require in the conditions.

Tyler Price, 540 11th Street, Idaho Falls, Idaho. Mr. Price stated that in this type of attraction people will usually carpool which will lessen the impact. Wimborne stated that if you live on 10th street you may not have received notice about this attraction and will not have any idea of the plans. Price stated that they did a big social media campaign to try to alert the neighbors. Price stated that the neighborhood is used to the traffic that happens with the 4th of July parade. If you live in the numbered streets, you know people will be parking in front of your house. Wimborne stated that this parking will be constantly churning all night. Dixon asked how long a customer would spend in the attraction. Price stated less than 30 minutes inside the attraction. Dixon asked what the total hours each day the attraction would be open. Price stated they would open around 4 -5 p.m. and close between 10-11 p.m. Dixon stated that it is 5-6 hours a day, 4 days a week which is approximately 20 hours a week which would be 6,000 people in the 20 hours or 300 people an hour. Price stated that he understands the parking problem and the long term vision has to be looked at. Price stated that he has no way to spin it or make it rosy, it is just an inconvenience.

Support:

Stephanie Rose, 150 11th Street, Idaho Falls, Idaho. Ms. Rose stated that they went door to door and with social media to try to invite people to the meeting and the tour of the building. Ms. Rose was expecting a lot more push back from the neighbors and was surprised at the positive reaction. Ms. Rose stated that Ms. Braid whose back yard faces the church was very much opposed to the charter school and she was not opposed to this idea. Ms. Rose stated that

she had people at the meeting from 10th, 11th, 12th 13th and 14th street. Ms. Rose stated that the social media campaign went even farther than their door to door campaign. Ms. Rose stated that this is not ideal, but this is what it takes to get this building redone. Ms. Rose stated that one of the things that made the neighbors in favor of the vision, was that the Prices live in the neighborhood and they are not detached Californians like the people who own the property currently. Ms. Rose stated neighbors are afraid to call the police on vandals because you cannot remain anonymous, so now the neighbors are directly calling the owner in California. Ms. Rose stated the building is currently a haunted attraction as it is, and this is the best chance it has to get restored.

Graham Whipple, 205 W 14th Street, Idaho Falls, Idaho. Mr. Whipple stated that he does understand the inconvenience with parking. Mr. Whipple lives directly across the street from Hawthorn Elementary and the entire summer is T-ball. Mr. Whipple stated that T-ball goes all summer and this attraction will be 5 weeks a year for limited hours and limited days. Mr. Whipple stated that as a short term conditional use with very restricted parameters this is a huge opportunity to save the neighborhood and save the building. Mr. Whipple stated that the last serious proposal was 25 years ago.

Opposition:

Yan Scott, 125 E 14th Street, Idaho Falls, Idaho. Mr. Scott stated that on street parking is open for everybody. Mr. Scott stated that Mr. Price is not trying to be a good neighbor for the rest of the people that have to live there.

Support:

Lizette Fife, 270 E 13th Street, Idaho Falls, Idaho. Ms. Fife stated that she lived in Moscow on a street called Hayes Street that is near East City Park. Every year there were several events that happened at East City Park and people would park in front of her house and there was lots of noise, but the Fife's just enjoyed it. It was part of their community and they embraced. Ms. Fife stated it is a busy Halloween time with the neighbors and it is a temporary thing that has a good cause in the end.

Morrison closed the public hearing.

Cosgrove used Candy Cane Lane as an analogy. Morrison stated that during Halloween he has car loads of people through his neighborhood. Black stated that everyone wants to see the building restored and sometimes there has to be a little bit of ugly and inconvenience to get to the good. Black stated that if one year doesn't prove profitable for Mr. Price then the attraction will end. Black stated that parking is an issue on the numbered streets, but to improve something you have to have the investment. It is not ideal, but it is an idea to bring the investment into the neighborhood, which everyone seemed to be in favor of. Swaney stated he is supportive of improvements and this is potentially a good idea. Swaney encouraged the Commission to consider that along with all of the other staff recommended conditions that the Commission includes the ability to revoke the CUP for failure to comply with the conditions. Swaney stated that if this gets out of hand and becomes a catastrophe then the City Council can revoke the CUP regardless if Mr. Price is making money or not. Public safety and security of the neighborhood is above and beyond whether or not this is a profitable proposition. Wimborne thinks that

everybody does want to see the building revitalized, but Mr. Price has the option after a year if the attraction is not profitable to opt out of the deal, however there is no way for the neighborhood to opt out of the attraction if it stays. Wimborne stated that the Commission has no idea how far this sphere of influence is going to be with the kind of volume anticipated. Wimborne is worried that those that support the attraction now, because they think it will work one way, and in a year it doesn't work that way, they are stuck with the attraction. Josephson stated that safety is the biggest concern, and Halloween night especially with all the trick-or-treaters going down the streets on Halloween night. Cosgrove stated her experience in the area is there are very few trick-or-treaters. Josephson is concerned with the traffic, but believes it will figure its way out. Josephson stated he is in favor of the CUP. Cosgrove stated that the staff recommendations are that outside lighting including strobe lights will not be more than what currently exists and must be shielded from adjacent property. Cosgrove stated a lighted sign is permitted, and she sees those two conditions at odds with each other, as there is not currently a lighted sign on the building. Cosgrove stated that if a motion moves forward in favor, then time restrictions on outside lighting, or at least a lighted sign would be important. Cosgrove added that another staff recommendation is that a plan should be in place to mitigate the potential of debris and litter from affecting neighboring properties. Cosgrove has not heard a plan to go out and clean up litter every day. Black stated that the limited amount of time that the haunted house will be open is reasonable to try to bring in some revenue for the project. Black stated that she thinks that the Prices will be keeping the property clean. Black stated that if you want something you have to be willing to sacrifice a little. The people that are looking to invest (Price) have researched it and have a good plan and most of the neighbors are very supportive of the plan. Cosgrove asked Black what she thought about Wimborne's opt out thoughts. Black stated that now with the vandalism there is no opt out for the neighbors as it is. Swaney stated that when the Charter school was trying to get a CUP for the building and they were talking about 150 students a day and maybe 50-60 vehicles and a small amount of traffic. This proposal is an average of 1500 people going through the haunted house daily, 4 days a week, in order to meet the target income as proposed for this project. The neighbors were out in droves against the charter school. Morrison stated that the duration of the project makes a difference. Cosgrove stated that no one ever promised with the charter school that it would be 4 days a week for 5 weeks and that at the end of 3 years it would go away completely. Cosgrove believes it is a due that has to be paid to move toward saving the building. Black stated that she lives off of 1st street near the DARE Haunted House and she believes most of the kids that age that attend the attraction walk. Black says there is not massive amounts of kids fighting, there is a line of kids and you barely notice it is there. Dixon stated that access to the alley from the building should be blocked off and if possible have the alley blocked off during the times of operation. Dixon stated that litter control could be handled with a rule that items sold cannot leave the property, including beverages, etc. Black stated that because the Prices live in the neighborhood they will try to be good neighbors and take care of the litter and make sure the property is clean.

Black asked what needed to be done on parking. Cramer stated that if the Board is comfortable with what is being proposed then just include in the motion a stipulation that the parking requirements be waived for the use. Black asked if it is difficult to get a variance. Cramer stated it is not easy, you have to prove hardship and unique circumstances. Cosgrove stated that whether they are parking in the parking lot or on the street it will exceed the capacity of the

parking lot, so closing off the parking lot to allow queuing probably has little impact. Cosgrove stated that it probably helps to lock off the alley access. Cosgrove does not see that the load to the neighborhood is going to be increased dramatically by using the parking lot for queuing vs. parking.

Black moved to recommend to the Mayor and City Council approval of the Conditional Use Permit in an R-3 Zone for an indoor amusement use, for Lots 35-48, Block 45, Crows Addition, with the Staff recommended conditions as well as the following stipulations:

- 1. Limited to 4 days of operation per week;**
- 2. Limited hours of operation 4 p.m. – 10 p.m. on weekdays and 4 p.m. – 11 p.m. on weekends;**
- 3. The Conditional Use Permit can be revoked for failure to comply with any of the stipulations listed;**
- 4. Applicant will block the parking lot from the alley.**
- 5. The parking requirements are waived for this use.**

Cosgrove second the motion. Dixon stated that he does not understand how the Commission decided that the 1st condition was met (the neighborhood strongly supports the conditional use permit) as there have been testimony both for and against. Dixon asked for staff to explain the condition. Cramer stated that it is not necessarily a condition of approval, as it was more of a recommendation due to this being such an odd requests and if there was no neighborhood support, staff would certainly recommend denial of the application. So if the Commission feels that they've seen neighborhood support, then staff is supportive as well. The Commission voted on the motion and it was a tied vote 3-3. Commissioner Morrison voted in favor and the motion passed 4-3.

Commissioner Dixon opposed the motion. Dixon stated that he wished the applicant could work with the current owner so that if after the first year the Commission reviews it and the neighbors come in and say how big of a hassle it was and the Commission tells him he cannot continue, then he is not obligated to buy the property and continue on. It is presented as a 3 year deal for the neighborhood and there is no way to know what it is going to be like.

Commissioner Swaney opposed the motion. Swaney stated this is the first time they have approved a CUP for a project that the more successful it is, the bigger public nuisance it will be and the more public safety hazard it will be.

Commissioner Wimborne opposed the motion due to her concern that there is not a good sense of how ugly this project might become. Wimborne believes the applicant has a creative proposal and has done a good job of trying to include things that would protect the neighbors, but the volume is just too great. Wimborne does hope the project is successful, because she loves the vision.

Business:

1. Reasoned Statement of Relevant Criteria and Standards: Lots 1-48, Block 15, Crows Addition. Commissioner Wimborne recused herself due to her position with the School District.

Cosgrove moved to approve the Reasoned Statement of Relevant Criteria and Standards for the Conditional Use Permit for Emerson High School, Lots 1-48, Block 15, Crows Addition, as discussed on June 2, 2015, Dixon seconded the motion and it passed unanimously.

2. Final Plat: Intermountain Business & Tech Park, Division No. 8. Beutler presented the staff report, a part of the record.

Wimborne moved to recommend to the Mayor and City Council approval of the Final Plat: Intermountain Business & Tech Park, Division No. 8, Dixon seconded the motion and it passed unanimously.

3. Zoning Code Audit Report: Diane Kushlan. Cramer stated that the zoning ordinance is old and has some problems. Cramer indicated that they discussed how to tackle a code that is over 50 years old, 150 pages long and has influenced the development of most of the City. The discussion led them to hire someone else to start the process. Ms. Kushlan was hired to do an audit to look at the code and look at the Comprehensive Plan. The plan is to move forward with implementing the work plan in the fall.

Kushlan stated that the assignment included 4 parts: look at zone changes that would implement provisions and policies of the comprehensive plan; do an audit of the zoning code and make recommendations of content and structural changes that would make it a more effective document; best practices to consider; and develop an outline of a work program. Kushlan stated she looked at the Comprehensive Plan and there are 45 separate strategic actions that are identified in the Plan that suggest some changes to the zoning code. Kushlan listed those in the back of the report. Kushlan stated that she went through and read the entire zoning code and made some recommendations. Kushlan stated that the codes need to be easily accessible and readable by the average citizen. Kushlan stated that a big recommendation is to simplify the language and to define words so everyone can take away the same understanding. Kushlan stated that the code needs to be consolidated and gave some examples of ways to consolidate the code. Kushlan stated that the third area will be reorganization, such as putting the information that people are most interested in first. Kushlan stated the fourth recommendation relates to creating a document that is clearer and consistent such as including a table of contents. Kushlan stated that text with a diagram would be helpful in a lot of places in the code. Dixon asked about super stores that have clothing, grocery and financial institutions. Kushlan stated that the whole commercial use is in a big revolution right now and so the way things are described have to be given some real thought in terms of is that the right way to do it or not. Dixon stated that if you say grocery stores the definition of what is in a grocery store has changed a lot. Kushlan stated that her approach to that is to use a very general definition that would cover all aspects of a grocery store. Kushlan had recommendations about content to include in the zoning code including, annexation and the area impact agreement with the County, provisions for development agreements, provisions for surety agreements, enforcement responsibilities and the process for enforcing and property maintenance. Kushlan stated that best practices can easily be incorporated into an update in the zoning code. Kushlan stated that there is a big trend right now to base zoning on the form of buildings and not the use. Kushlan stated that parking is a big issue and a lot of communities are moving away from the 5 spaces per one building standards, as

they've found they don't make any sense and they don't take into consideration the context of the use. Kushlan made recommendations to an approach for a work program and based the recommendation on the principals as follows: (1) the zoning code to the extent possible should be done by staff; (2) zoning code is not a final product, it should be annually looked at and change/update what is needed; (3) you want the zoning code to facilitate a better community. Kushlan stated the approach she is suggesting is as follows: (1) Clean up the code with minor changes and reorganizing the format; (2) review the code with the community stakeholders; (3) complete the strategic actions identified in the comprehensive plan. Cosgrove asked for examples of communities with modernized zoning codes. Kushlan stated that Sun Valley, Garden City, Meridian and Boise are cities that she has been involved in the changes. Wimborne asked Cramer what the next step is. Cramer stated it will be a combination of staff and outside consultants working on the changes. Cosgrove stated that she liked the tie between implied and explicit zoning changes.

Morrison adjourned the meeting.

Respectfully Submitted

Beckie Thompson, Recorder