

September 7, 2010

7:00 p.m.

Planning Division
Council Chambers

MEMBERS PRESENT: Commissioners Jake Cordova, Brent Dixon, Michelle Mallard, Gary Mills, Leslie Polson, Paul Savidis, George Swaney and Margaret Wimborne..

MEMBERS ABSENT: Chair Jared Peterson and Commissioners Donna Cosgrove and Kurt Karst.

ALSO PRESENT: Planning Director Renée Magee, Assistant Planning Director Brad Cramer, and two interested citizens.

CALL TO ORDER: Commissioner Polson called the meeting to order at 7:00 p.m. and reviewed the hearing procedures for the public.

MINUTES: August 3, 2010. Mills stated the resident at 475 6th Street is Dan Newman. Swaney indicated the second sentence of the second to final paragraph on page three should read, “Solutions to traffic and trash containment issues have not been presented.” **Commissioner Cordova moved to approve the minutes of August 3, 2010, as corrected. Motion seconded by Commissioner Savidis. Motion passed.**

Public Hearings:

Amend the Comprehensive Plan from Low Density Residential Designation to Commercial Designation: Lot 1, Block 1, Calvary Chapel, Division No. 1 and Lot 2, Block 1, Calvary Chapel, Division No. 2. Cramer reviewed the staff report, a part of the record. Polson clarified the planning staff is recommending eliminating the conditional use permit for a church in commercial zones. However, this site contains a school, and she understands staff is not recommending a conditional use permit for schools be abandoned. Cramer answered, in this particular situation in which religious instruction is given in the school, additional research needs to be completed prior to staff giving an answer.

Cramer said the reason for the application is current and proposed uses on the property are becoming more semi-commercial in nature and less appropriate for R-1 zoning. In addition to the church and school, there is a bookstore, coffee shop, classes for the community, athletic activities, and a park-and-ride parking area used by the Idaho National Laboratory (INL). A request to expand the park-and-ride parking area prompted the request to amend the

comprehensive plan. The right-of-way for Hitt Road is 110 feet. Future improvement of Hitt Road is expected to be two lanes each direction and a center turn lane.

Cramer presented an alternative to Calvary Chapel request proposed by staff and included in the public record. If the Commission is not comfortable with commercial zoning, it is possible the property can be designated as higher-density residential, rezoned to R-3A, and a conditional use permit (CUP) be used for a park-and-ride, the bookstore and coffee shop. This alternative proposal is a less intense land use designation and can be acted upon in the current hearing. There is a possible issue with the park-and-ride parking lot as a conditional use under R-3A zoning since the use will not be conducted only within existing buildings located on the premises.

Savidis stated there are parking areas all over town being utilized by Department of Energy (DOE) and he does not understand the concern. Cramer stated there is potential for three hundred vehicles at full build-out and busses will park on the lot leased by Battelle Energy Alliance.

Dixon asked if any zone allows the total mixture of uses currently existing on this property. Cramer answered RSC-1 allows public parking lots, but currently there is no zone that allows a church, school, bookstore/coffee shop, television/radio station and day care. Magee stated most commercial zones allow a church with a CUP. The uses on-site are allowed in HC-1 with the exception of a school. Dixon asked about two different zones within one building. Magee answered there are buildings in the City with split zones.

Polson noted the intention under the comprehensive plan to create commercial nodes rather than commercial strips. If the comprehensive land use map is changed to show this area as commercial, it opens up the potential for a long commercial strip.

Magee explained the use of park-and-ride parking areas is expected to expand in the future, and potential developers are being directed to commercial zones by staff. The existing ordinance provision for churches as a conditional use permit allows coffee shops and bookstores within a church facility if the purpose is to benefit church members rather than the community at large. A park-and-ride parking lot was not envisioned in the initial CUP for Calvary Chapel.. Savidis sees a problem with a neighborhood park-and-ride zoned commercially but surrounded by residential areas. If the park-and-ride is abandoned, there will be a commercial zone within a residential area. Magee said the areas being considered for park-and-rides are near arterial streets.

The hearing was opened to the public.

Gordon Boyle – 3261 South Boulevard. Mr. Boyle indicated Battelle Energy Alliance (BEA) approached the church about using its parking lot for a park-and-ride. It has come to the attention of the church this use is not consistent with the present zoning. Calvary Chapel has been told BEA on behalf of DOE will pay for the completion of the parking lot as shown on the church site

plan. There will be a five year contract for the park-and-ride prior to the parking area being turned over to the church. The DOE has indicated it is running into zoning questions across town. The church wants to be in compliance and is trying to see if something will work out that is advantageous for all involved parties.

Dixon clarified all the uses currently taking place at Calvary Chapel are allowed within the existing CUP. The bookstore and coffee shop are incidental to the major functions of the church. Mills has seen advertising in the past and cautioned the church about commercial usage beyond the congregation. Mr. Boyle indicated the doors to the bookstore are locked except for hours closely associated with services. Dixon clarified the only activity remaining that does not fit within the current zone and cannot be permitted by special use is the park-and-ride.

Polson asked if Mr. Boyle had reviewed the alternative proposal recommending higher density designation on the comprehensive plan and R3-A zoning. Mr. Boyle indicated the church is agreeable to the alternative proposal. The student drop-off situation will remain safe because the majority of the vehicle usage is earlier and later than student drop-off. Shift workers utilize the park-and-ride but Mr. Boyle believes eighty to ninety percent of the usage will be early morning and late evening traffic.

Polson asked about the potential for the church to buy more property to the south. Mr. Boyle answered the church is quite comfortable and has room for growth without purchasing more land.

Dixon asked about conversations taking place with the City of Ammon regarding Hitt Road. Magee responded commercial zoning was implemented in Ammon when Pearl House was proposed. Dixon stated the applicant has the potential to be a major traffic generator. There are currently no intersections planned along the one mile stretch in front of the church. Intersections need to be coordinated between the two cities and he hopes to see improvement compared with the intersections built on the stretch one mile north. Magee said discussions took place regarding access points in the two recent developments in Ammon along this stretch. Staff is requesting a traffic study if it appears there will be more than two hundred trips per peak hour. Dixon noted residential to the south of this property will limit commercial development in the area. Magee said residential to the south has been discussed and part of the rationale is to try to avoid a long commercial strip. The residential discussed has to be reverse frontage. Mills recalled the planning and expectation that regional commercial development would stop at Sunnyside along Hitt Road and a transition made to more of a neighborhood area.

Polson clarified a CUP is not needed for the coffee shop or bookstore if used generally for parishioners but is needed in conjunction with a land use change in order to allow INL busses. Mallard confirmed the only zoning change will be the twenty-six acres owned by the church. Cordova suggested rezoning the area expected to be used only for the park-and-ride. Dixon clarified a commercial zone allows for a park-and-ride as a permitted use. Dixon suggested the possibility of treating park-and-rides as a single subject rather than as individual issues. This

approach would also clarify the issue for the present hearing. The current application can be tabled while the underlying issue is addressed. Magee asked if a text amendment addressing park-and-rides is being suggested or a CUP no matter where the location. There is currently only one specific location being requested for a park-and-ride with the potential for another request in an M-1 zone on Grandview Avenue. Magee said the Commission will not see applications for park-and-rides since they are allowed in commercial or industrial zones. Magee does not want to see the church caught up in something that can take several months to resolve. Actual locations have not been identified. Mallard said any discussion at this point regarding potential park-and-rides will be based on assumptions that may not be true. Swaney said the issue was resolved in Pocatello by using commercial parking lots and there was no need to apply for rezoning. It is possible the same will be true in Idaho Falls. The applicant is asking for a decision and it is not fair to delay while determining the future of the INL park-and-ride system. Swaney suggested giving the applicant an answer and he believes it is unlikely there will be many more applications of this nature. He expects other park-and-rides to fit in existing zones and the Commission will not see the applications.

Cordova said he favors the alternative proposal and R3-A zoning. He suggested it will expedite the matter if the entire parcel is rezoned and a CUP placed on the parking lot. Polson clarified a CUP is allowed for anything permitted in RSC-1 if the use is conducted only within existing buildings or structures. Staff and the Commission have to be comfortable that a parking lot is considered a structure or it fits the intent. Wimborne said the church site plan already approves an expanded parking lot and the potential for a traffic study can be added to the CUP. Polson summarized a change will be needed for the land use map and rezoned R3-A. The CUP will be discussed at a separate hearing.

Savidis asked about adequate access for the busses. Cramer answered there is an entrance on the far southern end of the property. There are two other entrances to the north. Magee stated the land use is separated on the site and the situation is very safe for the students.

Steven Frei – 4071 N. 5th West. Mr. Frei met with the INL park-and-ride people and the issue will be before the Commission on one or two other occasions. One potential lot is in the county and will need to be annexed. He believes park-and-ride provisions should be developed. It is important to reduce bus traffic throughout neighborhoods and other places not designed for busses.

There were no further comments and the hearing was closed to the public.

Swaney prefers the alternative proposal of a rezone to R3-A with a CUP. Mills said a rehabilitation center has been completed to the north of the church property and will help define the end of the commercial area. He believes the residents in the assisted living facility north of the church deserve to have a non-commercial area to the south. All permitted uses have to be considered due to the possibility the church could relinquish this property at some point in the

future. Mills prefers high density over commercial use. Mallard agreed and believes the park-and-ride is a good land use. Wimborne believes it is possible park-and-rides will need to be addressed in the future but there is no need to hold this application. Savidis favors the alternative proposal but prefers changing the zoning for the parking area only. Dixon reviewed the purposes and permitted uses in RSC and R3-A zones. Development in R3-A must be in harmony with residential uses and R3-A is the more appropriate zone. Dixon believes the entire parcel should be R3-A, consistent with the property to the north. R3-A zoning along a major arterial is consistent with the City guidelines. Dixon suggested looking at possible changes to the ordinance to allow park-and-rides as conditional uses even though they are not associated with a structure. Park-and-rides should be located near arterials in areas where higher density is appropriate.

Commissioner Wimborne moved to recommend to the Mayor and City Council amending the comprehensive plan from low density residential to higher density residential on the Calvary Chapel site. Motion seconded by Commissioner Cordova. Motion passed 5 to 2 with Commissioners Savidis and Swaney opposing. Savidis said the area is a large undeveloped parcel of R3-A on the site. Cordova believes the CUP limits the usage. Savidis is concerned about the potential for a usage other than a church to exist in the future.

Rezone from R-1 (Single-Family Residential) to RSC-1 (Residential Shopping Center): Lot 1, Block 1, Calvary Chapel, Division No. 1 and Lot 2, Block 1, Calvary Chapel, Division No. 2. Cramer reviewed the staff report, a part of the record.

The hearing was opened to the public. There were no comments and the hearing was closed to the public.

Dixon indicated the property immediately to the north along the major arterial is R3-A from the arterial to the canal. This property is approximately the same size, is along the same arterial, and backs against the same canal. The property east of the major arterial has not developed yet but the City of Ammon has zoned the property as commercial. If the property develops as commercial, R3-A will provide a high density residential buffer from lower density residential farther to the west. **Commissioner Cordova moved to recommend to the Mayor and City Council approval of rezoning from R-1 to R3-A on Lot 1, Block 1, Calvary Chapel, Division No. 1 and Lot 2, Block 1, Calvary Chapel, Division No. 2. Motion seconded by Commissioner Wimborne. Motion passed unanimously.**

Text Amendment to Zoning Ordinance to Allow Churches and Schools within RSC-1 Zone, Section 7-9-9, RSC-1 (Residential Shopping Center). Magee said, if Mr. Boyle will withdraw this application, she will address issues in the staff report at a later time. **Mr. Boyle withdrew his application.**

Magee explained under the Religious Land Use and Institutionalized Persons Act (RLUIPA) a city has to treat religious institutions the same as comparable secular institutions. The ordinances need to be reexamined to ensure churches and other assembly uses are treated the same.

Text Amendment to Zoning Ordinance to Provide Animals as Permitted Under Section 5-9-8 of the Idaho Falls City Code: Allow Change of Uses within Defined Downtown District without Provision of Additional Parking.

Magee reviewed the staff report, a part of the record. The zoning ordinance allows customary household pets but does not allow breeding of dogs and cats for sale. The animal control ordinance was amended approximately two years ago to allow breeding of dogs in a residential zone under certain circumstances. The animal control ordinance conflicts with sections of the zoning ordinance. Magee noted City Council is currently considering allowing up to six chickens in residential zones. In anticipation of this possibility Magee is attempting to change the ordinance to be consistent with action taken by City Council.

As to the second proposed amendment, the zoning ordinance currently states the zoning administrator can waive parking downtown for new uses similar to the former use. If a building has been used for retail and three parking spaces per thousand square feet are required, conversion to an office space does not require additional parking. If a restaurant is replacing retail or office, the developer has to find twelve additional parking spaces per thousand square feet in the downtown area. One option is to buy a building and tear it down to build a parking lot. It is not preferable to destroy downtown buildings to achieve mandated parking. In the past, property owners leased space from the Downtown Parking Association (DPA). However, the parking lots run by the DPA have been sold to the City of Idaho Falls and the City leases the lots to the Idaho Falls Downtown Development Corporation (IFDDC). The IFDDC leases the spaces to employees of downtown businesses, so parking for customers is generally not available in these lots. Pocatello, Boise and Twin Falls have measures in place to ease the downtown parking requirements placed on businesses as shown in the staff report. Magee believes customers will find a place to park, especially if employees use off-street parking. Staff is asking this provision be passed to allow downtown to redevelop without requiring individual property owners to provide parking.

Dixon asked if there are areas with parking restricted to vehicles with resident parking stickers. Magee answered it has not been necessary up to this point. Dixon wants to ensure residents near downtown have parking available in their neighborhoods. He clarified this ordinance change signals parking is a shared resource in the core of downtown and commercial parking may crop up to accommodate downtown visitors.

The hearing was opened to the public.

Steven Frei – 4071 N. 5th West. Mr. Frei believes it is vital for the redevelopment of downtown to reduce the parking burden for downtown businesses. Mr. Frei moved his office downtown and loves being in that location. He is working with a developer who has purchased a couple downtown buildings and is interested in buying a couple more properties. Requiring developers to find parking severely hampers progress. Downtown restaurants generally see walking traffic during the day and there is not a parking problem at night. Mr. Frei strongly encourages modifying the ordinance and believes it will draw developers downtown who will continue to improve the area.

There were no further comments and the hearing was closed to the public.

Commissioner Cordova moved to recommend to the Mayor and City Council the zoning text amendment to allow change of uses within the defined downtown without provision of additional parking. Motion seconded by Commissioner Dixon. Motion passed unanimously.

Dixon does not believe breeding of dogs and cats for sale should be allowed in Residential Park Zone (RP) because of the limitation of home offices in RP. He sees animal sales as similar to home offices and does not believe one business should be allowed in RP and another not allowed. **Commissioner Dixon moved to recommend to the Mayor and City Council denial of the request to change the zoning ordinance relative to pets and maintain the original wording in the RP zone.** Cordova asked if this relates only to the RP zone. Magee said it is a good point not to allow one business and deny another. The ordinances build on each other. The language proposed for RP could be put in the R-1 zone. Home businesses are allowed in R-1. Dixon supports the logic but asked how the change is implemented because the only place the wording appears in the code is in the RP zone. Magee said permitted uses in R-1 will need to be amended to include the proposed wording. **Commissioner Dixon moved to recommend to the Mayor and City Council to retain the existing wording for the RP zone but to add wording to the R-1 zone stating, “The following uses shall be permitted in the R-1 Zone: D. Customary household pets as permitted by Sections 5-9-8 and 5-10-7 of the Idaho Falls Municipal Code.” Motion seconded by Commissioner Savidis.** Dixon clarified the effect of the motion is no change to RP or RP-A, but the change applies to R-1, R1-A, R-2, R2-A, R-3 and R3-A. Mills prefers not to see this type of business in higher density areas such as R-3 and R3-A. Magee suggested recessing the item. **Savidis withdrew his second. Commissioner Dixon moved to recess the text amendment to zoning ordinance to provide animals as permitted under Section 5-9-8 of the Idaho Falls City Code to the next scheduled meeting. Motion seconded by Commissioner Wimborne. Motion passed unanimously.**

The meeting adjourned at 8:55 p.m.

Donna Carlson, Recording Secretary