

JULY 27, 1972

---

Pursuant to a call by the Mayor the City Council of the City of Idaho Falls met in special session in the Council Chambers of the City Building on July 27, 1972 at 7:30 p.m. for the purpose of conducting a public hearing to consider the rezoning petition of William and Beulah Hatch, Petersen, Nielson; considering a request for a variance by Attorney Gilbert St. Clair to permit installation of aluminum pipe at the Grand Central construction site to provide surface drainage; considering a resolution confirming the Assessment roll L.I.D. #42; authorizing City Clerk to advertise for bids on airport project: ratifying previous informal Council action approving an F.A.A. airport lease for traffic control.

There were present at said meeting, Mayor S. Eddie Pedersen; Councilmen Melvin L. Erickson, Gilbert Karst, Paul Hovey, James Freeman, Jack Wood, and Norris Gesas. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Rod Gilchrist, City Planner; Don Lloyd, Public Works Director.

The Mayor announced that this was the time and the place, as advertised, to conduct a public hearing to consider a rezoning petition submitted by William R. and Beulah Hatch, Peterson and Nielson and C. & W. Manhattan Associates. The Mayor asked the City Clerk to present and read this explanatory memo from the City Planner:

July 27, 1972

MEMO:

TO: Mayor and City Council  
FROM: William R. Gilchrist  
SUBJECT: REZONING

Attached is petition to rezone, submitted by Wm. R. and Beulah Hatch, Peterson & Nielson, and C. & W. Manhattan Associates, requesting a rezoning from R3-A and M-1 to RSC-1 of that property generally described as all that property lying between Foote Drive and Skyline Drive and Grandview Avenue and the Computer Center. Two plot plans of the area are attached, one of which indicates preliminary grades.

Also, attached are two petitions protesting the proposed rezoning. One petition contains the signatures of 408 persons objecting to the proposed rezoning; the other contains the signatures of property owners within 300 feet of the subject parcel who are objecting. Testimony given at the Planning Commission meeting stated that this represented 62% of the property owners within a 300 foot radius of the proposed zone change.

The Planning Commission, at a special meeting held Wednesday, July 19<sup>th</sup>, considered this request at that meeting. The Planning Commission recommended, by a vote of 7 to 4, to approve the rezoning.

It is now being submitted to the Mayor and City Council for your consideration.

s/ William R. Gilchrist

This was followed by a memo of recommendation from the City Planner, as follows:

JULY 27, 1972

---

TO: Mayor and City Council  
FROM: W. R. Gilchrist, City Planner  
SUBJECT: REZONING, PROPERTY AT SKYLINE DRIVE AND GRANDVIEW (WILLIAM HATCH, ET. AL.)

If only a rezoning were involved, and a question of controlled development – which is available through RSC-1 zoning, versus relatively uncontrolled development which would undoubtedly occur in another zone, then I would favor RSC-1 zoning of the property. However, the petitioners have stated that a K-Mart is definitely the planned use of the property. The development as presented is of a regional nature, and it is my opinion that this type of development is definitely not the intent of the RSC-1 zone. This zone is intended to provide a neighborhood convenience type center.

I also am not in favor of releasing property now within the confines of the Industrial Park for retail commercial use.

I concurred with the original recommendation of the Planning Commission, which was for denial. I don't feel that sufficient evidence has been presented to change that opinion. For these reasons, I recommend denial of the request.

s/ William R. Gilchrist

The Mayor then asked the City Clerk to present and read aloud all written protests, as follows:

July 25, 1972

Mayor S. Eddie Pedersen:

I am opposed to the rezoning of the west side site for the K-Mart.

Spot zoning is a Pandora's Box that sets legal precedents which can be used as a pry to bring about rezoning of other properties in subsequent cases. No area then remains safe from encroachment.

You know that to be a fact – I hope that is remembered and voted accordingly Thursday evening.

Respectfully,  
s/ Milton J. Adam  
216 W. 14<sup>th</sup> Street

July 26, 1972

TO MEMBERS OF THE CITY COUNCIL AND PLANNING COMMISSION:

It is with great regret that I see the City Planning Commission and the City Council going against the wishes of the people of Idaho Falls.

The only benefactors in the proposed rezoning of the 12-1/2 acres at Skyline and Grandview are K-Mart and the individuals selling the property and those connected with the sale.

JULY 27, 1972

---

We just passed a bond to improve an airport that we taxpayers pay for – then introduce a tremendous traffic problem. The main exit from the K-Mart would either enter Skyline or Grandview. If it were from Foote Drive it will involve a traffic light on Grandview. Any heavy vehicle such as camper trucks, trucks and buses would have to start from a stop to go up a steep incline toward Skyline. In winter this is most hazardous and undesirable.

If it exits from Skyline the traffic would interfere with airport traffic and the fire station. This means a new road from the airport which we taxpayers must pay for.

Experience has shown that buffer zones are not lived up to by the developer.

Out of 700 feet frontage on Skyline, 400 feet is City-owned and belongs to the people of Idaho Falls. If 300 feet of frontage and 12-1/2 acres is claimed to be selling for \$200,000.00, what is the 400 feet and 2.9 acres worth that's leased to H & O and belongs to the citizens of Idaho Falls?

How much will it cost the taxpayers of Idaho Falls to widen the streets and provide facilities to serve this one store. There are already adequate shopping facilities a half mile away in the Skyline shopping area.

A change in zoning would greatly affect property values in this area.

I feel the land should be purchased by the City for a sled hill park. A bond could be presented to the citizens regarding this. A small rope tow could be installed and areas set aside for sledding, snowmobiling and skiing with a curfew set for evening hours. In summer, areas could be set aside for bicycles and limited size motor bikes.

Observation of Eagle Rock Park proves it to be most unsatisfactory as the desirable slopes melt early and any child using the facilities would have to be constantly supervised as the slopes lead directly to the river.

What about adjacent vacant properties such as Gustafson Park, Hughes Imperial Estates, Home Ranch and other areas of Sunnyside Road and St. Clair Road. What protection do these areas have against similar encroachment of commercial interests?

We would like to go on record as opposing the zoning change as being against the interests of the taxpayers of Idaho Falls.

s/ Grace and Tom Boland  
Mr. and Mrs. Tom Boland  
495 East 13<sup>th</sup> Street

The Downtowners  
July 27, 1972

Honorable S. Eddie Pedersen, Mayor  
Idaho Falls, Idaho

Dear Mayor:

JULY 27, 1972

---

This letter is presented to be made a matter of record for the City Council meeting on July 27, 1972.

The west side location being considered for the K-Mart Store is not presently zoned for this particular type of operation, also as noted by the concerned citizens not only in the west side area but throughout the community this shopping center is not wanted in this location.

The Urban Renewal Project area between Broadway and Cliff Streets not only is zoned properly but is a site in excess of twenty-four acres designated specifically for commercial use.

The west side location is opposed by a large percentage of residents where as the Urban Renewal location is vacant and looking for new industry, in view of these two points the executive committee of the Downtowners recommends as an alternate location the Urban Renewal Project area.

Thank you for your consideration.

s/ Jake Cordova  
President, Downtowners

Office of the Prosecuting  
Attorney  
Bonneville County  
July 26, 1972

Mayor and City Councilmen  
City Hall  
Idaho Falls, Idaho

Gentlemen:

As Prosecuting Attorney, I have watched with interest the City Council's review and consideration of the proposed rezoning of the southern end of the Airport Industrial Park. As a very close observer of County zoning, there are some matters that I am aware of that should be taken into consideration by you in finally passing on the rezoning proposal in question.

As you may know, the Prosecuting Attorney is the legal adviser to the Zoning and Planning Commission of the County and the Board of County Commissioners in zoning and other civil matters. While petitions to rezone may not be too common place in City zoning affairs, they are most common place in County zoning. For example, at the County Zoning and Planning Commission meeting held on July 5, 1972, six rezoning petitions were considered by the Commission. The great bulk of the rezoning petitions filed with the County Zoning and Planning Commission are the creation of new trailer courts and commercial establishments in the County's Agricultural Zone. One area that has received considerable rezoning pressure is the south side of Sunnyside Road between Holmes Avenue and the South Yellowstone Highway. This area is presently in a mixed general agricultural and residential agricultural zone.

JULY 27, 1972

---

The pressures brought to bear on the Board of County Commissioners and the Zoning and Planning Commission to grant the rezoning petitions, in essence, to spot zone, have been considerable in recent years. These pressures reflect the growth of the Idaho Falls area and the desire of investors to acquire less expensive land outside the areas that are presently zoned for commercial and industrial uses in the County. It is difficult, as you know, to resist the pressure that is brought to bear to grant these rezoning requests. Good planning that adequately segregates commercial and proposed and existing residential uses is required of both County Agencies to insure that Bonneville County does not grow into an unlivable and unplanned urban area.

In spite of the pressures that have been brought to bear, the County Zoning and Planning Commission and the Board of County Commissioners have been more and more reluctant to grant the spot zone changes that have been requested. There have been many investors and landowners in the County that have been bitterly angry with the Board of County Commissioners because of the Board's refusal to grant zone changes.

What bearing does all of this have on the proposed rezoning of the Airport Industrial Park? As should be apparent to you, the responsibility for zoning and planning in the greater Idaho Falls area, because of the growth of the area, is passing to the County zoning agencies. These agencies will be increasingly subjected to pressures to spot zone for commercial and trailer court uses. These agencies rely to a great extent on the actions taken by the City Council and the City Planning Commission in zoning matters. The argument is often that if the City Council, which represents the interests of the citizens of Idaho Falls who make up the great bulk of the County's population, takes a certain position on spot zoning for certain purposes, that that is an expression of the desires of the community of Idaho Falls that should be considered in granting spot zoning requests near and around the Idaho Falls city limits. I do not say that such reasoning is necessarily good planning, but I can readily attest to the fact that such reasoning is frequently indulged in and sometimes has permitted otherwise improper spot zoning in the built-up areas near Idaho Falls. Essentially, I am saying that for many reasons, the City of Idaho Falls is looked to for leadership, in zoning matters and the setting of zoning policy by Bonneville County. I am certain that to a lesser extent the smaller incorporated areas of the County likewise look to the City for zoning leadership. This is most natural in light of the fact that the City of Idaho Falls has a professional planning staff, a Zoning and Planning Commission of great experience, and articulate, educated men on its City Council.

A considerable citizen objection has been raised to permitting the K-Mart Store to be located in the area proposed to be rezoned. One does not have to be a real estate expert to know that the presence of a commercial enterprise the size of the K-Mart Store proposed will have a significant effect in diminishing residential property values in the area. As I understand the arguments that have advanced for the rezoning, the essential thrust is that the eventual use of the parcel in question, even if not rezoned, may well diminish residential property values. The argument is elusive once the zone change is denied, for the K-Mart Store will not be a factor in determining residential values on the west side and the ultimate use of the property in question will be one that is in accord with the plans for the Airport Industrial Park. Stated another way, residential values on the west side of Idaho Falls today reflect or should reflect the impact of a fully developed Airport Industrial Park. However, they do not reflect the impact of a large, very busy and congested shopping center such as the K-Mart. The citizens on the west side have ample cause to worry about their property values. If I lived on the west

JULY 27, 1972

---

side, I would be very concerned and worried about their property values. If I lived on the west side, I would be very concerned and worried about the impact on the value of my home of such a development. Apparently, there has been no one from the west side of Idaho Falls who has suggested that the presence of the K-Mart would enhance his home's value.

The point that I make is this: for the City Council to grant the rezoning request proposed over the vigorous and not unreasonable opposition of the citizens of the area directly affected by the rezoning will serve as a benchmark for the County's zoning agencies in passing on spot zoning requests in areas near and around Idaho Falls. Unfortunately, the City Council cannot operate in a vacuum on this issue. The impact on planning and zoning by other units of local government of granting the zone change will, I can assure you, be felt to the detriment of all of us.

What alternatives are available to the City Council? There are alternatives that have been discussed that may well satisfy the property owners, their agents, the K-Mart organization, and the citizens on the west side of the City.

Initially, there are several prime locations in the City and County that are zoned for commercial purposes at the present time where the K-Mart store could be located. Among these locations are West Broadway, North Yellowstone Highway, the area adjacent to the Country Club Shopping Center, and the urban renewal area. It might be of interest to note that Leonard Callan, the Director of the Urban Renewal Agency in Idaho Falls, has contacted representatives of the K-Mart's parent company on several occasions concerning the purchase of land in the urban renewal area. The company has not responded to Mr. Callan's inquiries and there has been no discussion between the K-Mart organization and the Urban Renewal Agency concerning the purchase of property by the K-Mart organization in the redevelopment area. It might very well be that the redevelopment area property, in its final development stage, would be very desirable for the K-Mart's purposes.

Secondly, the point has been graphically made that the final development of the parcel in question will diminish the value of residential property on the west side of Idaho Falls. There has been discussion that perhaps a park could be established on the parcel in question to serve as a buffer between the Airport Industrial Park and the residential area. Undoubtedly, this buffer would enhance property values in both the residential area and the Airport Industrial Park. Obviously, the purchase of the property for park purposes would permit the owner of the property to realize his profit from the sale of the land. The plan for a park would not be acceptable unless the owner was compensated in the same amount and manner as proposed in the sale to the K-Mart organization. Further, this alternative is attractive in that the owner's agent could still earn his full commission. Lastly, this alternative is most attractive in that the law may permit the creation of a local improvement district for the purchase of the property for park purposes and that the federal government does provide 50% matching funds for the purchase and development of City parks through the Bureau of Outdoor Recreations. This alternative would certainly serve the local interests of the landowner, his agent, and the citizens, that must be taken into consideration in deciding the future of the parcel in question. At the very least, this proposal should receive the study of the Council and the City Planning and Zoning Commission before final zoning action is taken by the Council.

JULY 27, 1972

---

My appeal to you is to not rezone the parcel in question. This appeal is in part personal but is largely a very real concern as a public office holder for good land use planning in Idaho Falls, and Bonneville County. Good land use planning requires tough action on the part of the local governments. I would hope that the Council will provide the necessary leadership in this important cause to other agencies of local government involved in land use planning.

Respectfully,  
Seward H. French  
Prosecuting Attorney

Idaho Falls Downtown  
Improvement Association  
July 27, 1972

Honorable Mayor and City Council  
City of Idaho Falls  
Idaho Falls, Idaho

Gentlemen:

The Directors of the Idaho Falls Downtown Improvement Association wish to express their protests to the proposed change of zoning to allow a shopping center to be constructed at the intersection of Grandview and Skyline in the western area of Idaho Falls.

We feel that the change of zoning would be detrimental to the overall interests of the City and would violate the long-term planning program which the City procured at much expense and occasionally refers to.

The continual establishment of scattered shopping areas is destructive to a strong central business area, which is mandatory for a strong business community.

The electors of Idaho Falls recently passed an Airport General Bond Obligation to improve and upgrade the airport for the benefit of all area citizens. Creation of a shopping center and the consequent increase in traffic on the two main accesses to the airport would be inimical to the interests of the citizens as expressed in the vote to improve the airport.

We submit that the request of zoning change should be denied.

Sincerely yours,  
Idaho Falls Downtown  
Improvement Association  
Kenneth Cunningham  
Richard Clayton  
Paul Ahlstrom, Jr.  
Fisher Ellsworth  
Karl Page  
Robert Brewer  
Henry H. Bennett  
W. Joe Anderson

JULY 27, 1972

---

945 Seventh Street  
Idaho Falls, Idaho  
July 27, 1972

Mayor S. Eddie Pedersen  
Members of the City Council  
Idaho Falls, Idaho

Gentlemen:

I wish to protest the rezoning of the property in the Skyline-Grandview area for the purpose of locating a K-Mart Store.

The reasons for my objection are as follows:

Number 1 –

I believe that the proposed change involves bad zoning practice since it constitutes yet another proliferation and a further fragmentation of retailing areas. As a former member of the Idaho Falls Planning Commission I attended regional zoning seminars at the University of Montana and in Seattle. At these seminars we were urgently cautioned not to allow this undesirable “sprawl” to continue in our cities. K-Mart is welcome to come to town, but they should locate in an area already properly zoned. We have an ample supply of such areas.

Number 2 –

Location of the shopping center where proposed constitutes a serious encroachment on our airport. If the center generates the traffic expected it will necessitate stop lights on Grandview and Skyline to regulate the traffic. This would mean that henceforth every airport patron – and most of us are on short time – would suffer the aggravation of delays and lost time while we sweat out these stop lights. Only the serving of an extremely vital community need would justify creating such a bottleneck – especially on an access road serving so many people.

Finally, from a philosophic standpoint I think perhaps we need to look a little more carefully at the interests and rights of homeowners. Sometimes there seems to be an almost reverent regard for the right of land developers to reap every possible penny of profit from their land. Quite often, I think, not the same concern is given to the beleaguered home owner who is fighting to protect his proudest possession - and often his life’s work. There is room, I believe, to strike a better balance between these interests – and not to let all the profits end up on one side.

Sincerely,  
s/ Karl G. Page

This letter, although not a protest, was presented, inasmuch as the recipient had asked that it be made a matter of record:

JULY 27, 1972

---

July 25, 1972

Mr. Francis Simonsen  
Tandy & Wood, Inc.  
256 Broadway  
Idaho Falls, Idaho

Dear Francis:

Regarding our telephone conversation this morning, I would like to write you this letter stating these particular facts.

We live at 1465 Antares Drive which is west of Idaho Falls, and in the general area of the K-Mart location which has been discussed quite extensively. AS I told you on the telephone, we did not sign any of the petitions which were brought to our home, opposing the opposed establishment of the K-Mart because we felt it would not disturb in any way our way of living nor the valuation of our property.

Yours very truly,  
Vernon S. Johnson

Reference is made to the foregoing memo from the City Planner indicating petition signers in the amount of 408, protesting this requested rezoning. At this time mass petitions were presented and received by the City Clerk which would augment this figure to approximately 600, excluding all duplications. The City Clerk drew attention to the fact that there had been several letters of protest written personally to Councilmembers and for that reason, they were not presented and read. However, the Mayor asked all Councilmen if they had received any favoring the rezoning and was answered, jointly, in the negative by all Councilmen.

The Mayor then invited Mr. Dale Parish, local realtor, to present his case. Mr. Parish appeared and explained that he represented the landowners who submitted the rezoning petition and introduced local Attorney Terry Crapo who represented Mr. Hatch, also Mr. Fred Hahn, local attorney, representing the K-Mart interests. Parish referred to the zoning ordinance, passed in 1964. He said, even at that time, the property under rezoning consideration this night was frequently the subject of proper zoning discussion. He gave a brief history of said property since that time, mentioning developments that had since taken place, thus changing the character of said property such as the Interstate Highway, the Metropolitan Planning Study which provided, among many other things, for Grandview to be a belt arterial, the fact that, in 1966, by court decision, a portion of the Hatch property had been rezoned C-1, the fact that, in 1968, the area had been rezoned M-1 except for an R-3A buffer zone, construction of the fire station and the fact that a planning study had earmarked Skyline as a potential 100 foot arterial. Parish noted that many opponents to this rezoning had referred to the rezoning petition as an effort to spot zone. He said this is too large an area for spot zoning to apply. He said the potential investment of the people he represented had been jeopardized, noting that the only portions developed were those that had been rezoned. He said an owner of property has a constitutional right to develop as long as said development is not detrimental to adjacent property owners and that, in his opinion, RSC-1 would fall in this category. Parish continued by saying that the R-3A portion is not even usable for development within that prescribed zone, in view of the property's location and its change of character since 1964, as previously mentioned. He said this problem would not go away and, if not properly rezoned this night, it would certainly be subject to rezoning consideration later on with the

JULY 27, 1972

---

request at that time, or those times, probably not nearly as beneficial to near-by property owners. Parish then described the RSC-1 zone as prescribed in the zoning ordinance. He said this zone gives the near-by property owner ample protection, inasmuch as the Planning Commission and the City Council must approve every facet of the development therein, including setbacks, 24 month development time, lighting requirements, landscaping, curb cuts and other restrictions for the protection of the near-by residents. He said a surety bond is required to guarantee development satisfaction to all affected parties. Parish noted that an RSC-1 zone would serve as a protection to the airport, all landowners including his clients and limited access to Grandview which has been quite a controversial factor. He said a K-Mart store would be highly beneficial to the entire City and all taxpayers in view of the fact that it would add substantially to the tax base, payroll and the gross business it would generate for the entire City.

At this time Councilman Freeman asked to make a statement. He said that in his opinion, RSC-1 did not constitute spot zoning. He cited several instances of commercial spot zoning throughout the City but that these were there by virtue of non-conforming use and the fact that they were in location prior to passage of the comprehensive zoning ordinance. He drew attention to the fine, dedicated service being offered by the Planning Commission whose members serve by appointment of the Mayor without compensation. He said these men study zoning problems and requests thoroughly before recommendation to the City Council, and, therefore, it would behoove all citizens and the Council to accept their recommendations seriously. He noted that there had recently been accusations that the City Council does not abide by the advise and counsel submitted by professional studies for which the City had previously expended substantial funds. He said this accusation is simply not true. He said, with reference to the zoning question, submitted this night, the comprehensive plan concurs that RSC-1 would be an acceptable zone. He said the land use map calls for general industrial for the land in question and that RSC-1 would be less permissive and more restrictive than the zone as recommended. Freeman concluded his remarks by saying that the land in question cannot possibly be developed under and R-3A zone and that RSC-1 is a zone acceptable to the petitioner and one that should be acceptable to the near-by residents, in view of the alternates which are far less restrictive.

Mr. Tim Hopkins appeared before the Council as attorney for the protesting residential property owners. He said the group he represented were referred to as "Citizens for Planned Development" and their number exceeded 400 citizens. He said that, according to his understanding, based upon instructions from his clients, there was only one issue; namely, should the area in question be rezoned RSC-1 or should it not be rezoned. Hopkins said, instead, that, in his opinion, RSC-1 is a commercial zone and not a suitable one. He said, further, that the multitudinous protests presented this night would suggest that an RSC-1 zone is not desired by this protesting group. Hopkins referred to the zoning ordinance, Article III, Section 3-2-B which states that any given rezoning petition shall "further promote the objectives and purposes of the zoning ordinance". He said the rezoning petition submitted this night does not meet this qualification in any respect because it failed to meet the requirements of the master plan which is a part of said ordinance. Hopkins continued by saying that testimony submitted this night suggested that the K-Mart would add to the local tax which, in his opinion, would not be the case, inasmuch as the success of the K-Mart would be at the expense of other local businesses which would erode values elsewhere, including the downtown area. Again, he drew attention to the zoning ordinance which states that any given zoning change must be reasonably necessary; must be in the public interest; and must be in harmony with the land use plan. He said this rezoning request fails to qualify in any of these respects. Hopkins then referred to the definition which states that a residential shopping center should satisfy the daily needs of the immediate neighborhood. He said a shopping center within one half a mile does this and proceeded to list the daily services available at the shopping center at Skyline and Broadway. Hopkins then drew attention to the fact that,

JULY 27, 1972

---

according to the zoning ordinance, a residential shopping center may not be within 1 to 1 ½ miles of another similar zone but that the one proposed is less than ½ mile from the equivalent of a residential shopping center. Hopkins concluded his remarks by saying that new home owners in that area rely on the status quo as evidenced by existing zoning and, in the interests of their future land values, they have a right to see that status quo maintained and preserved.

Mr. Robert Bauchman, 3001 Gustafson Circle, appeared before the Council. He explained that even though he was a tenant in the Airport Industrial Park, he owned no property in that area and was speaking only as a citizen and a taxpayer. He expressed profound pride in the airport which he said he had seen grow from infancy. He said he has seen other cities where residential areas had encroached upon the airport to the point where, by court action, said airport was forced to move at great taxpayer expense. He said that, in his opinion, this could happen in Idaho Falls and that the area in question, large as it is, if zoned RSC-1, would tend to minimize this threat. He voiced approval for the rezoning request.

Mrs. Sandra DeKlotz of the League of Women Voters than appeared with this prepared statement from that organization:

July 27, 1972

#### TESTIMONY OF K-MART REZONING

The League of Women Voters of Idaho Falls first began a study of city planning and zoning in 1967. At that time, the City had hired the Clark, Coleman, Rupeiks Company to prepare a master plan for the Idaho Falls area. After considerable study League reached a consensus in favor of orderly, long-range planning and zoning for the City and County, based upon the recommendation of the Rupeiks Plan.

I would like to read to you some excerpts from the final Comprehensive Plan for Idaho Falls, a plan paid for by citizens of the Idaho Falls area and accepted by the City Council as the basis for future growth of the City.

“Over-zoning and spot zoning of land for commercial uses has resulted in considerable strip development on major arterials and in inappropriately located shopping centers”.<sup>1</sup>

“Commercial strip development along major arterials is a serious problem in Idaho Falls which results in congestion on the arterials, decentralizes the commercial structure, and threatens stable residential areas”.<sup>2</sup>

“Over-zoning has done much to cause the strip commercial development along the City’s major highways and streets resulting in a mixed residential-commercial land use in some areas. Residential properties adjacent to commercial establishments have been subjected to the annoying side effects of businesses which have in many instances, reduced the residential value and often had an effect on the maintenance of the residential structures, causing blight in the mixed use area”.<sup>3</sup>

“Modifications (in this plan) that are made should preserve the over-all objectives sought by the plan and should not be made in response to the pressure of special interest groups. Only a few such modifications can reduce the citizens’ opinion of the Plan from that of a positive guide to that of a nuisance to be overcome”.<sup>4</sup>

JULY 27, 1972

---

As an example of the annoying side-effects mentioned in the Rupeiks Report, we note that the trend toward late store hours seems to be growing. At the present time there are no regulations governing store hours in the Idaho Falls area. Some major super markets stay open until 12:00 P.M. with other smaller grocery stores open all night. It is obvious that late store hours and a 7-day-a-week operation would definitely constitute a nuisance to nearby residents, Increased traffic congestion in a basically residential area would be both a nuisance to nearby residents. Increased traffic congestion in a basically residential area would be both a nuisance and a danger to children living nearby.

According to both the master plan and the City's zoning code, a neighborhood shopping center is to cater only to the immediate demands of the neighborhood's inhabitants by providing convenience goods and services. Material presented by K-Mart officials indicates that it would not be built for the use of the neighborhood but for people coming, by automobile, from as far as 250 miles away.

Because we and the great bulk of local residents believe in planning and zoning and in the integrity of local officials, we buy property, build homes, and chart future plans on the basis of codes which we assume have stability. A great disservice is done to the people of the community and a trust is violated when exceptions are made for what appear to be narrow monetary interests.

In following our belief in orderly planning, the League of Women Voters can only feel that granting a zoning change to create yet another commercial area in the midst of a residential neighborhood is not in the best interests of the community.

1, 2, 3, 4 – COMPREHENSIVE PLAN FOR IDAHO FALLS, CLARK-COLEMAN RUPEIKS, INC.  
PP. 30, 22, 35, 15.

Mr. Harry Brown, 1867 Michael, appeared before the Council to ask Mr. Parish why K-Mart could not select another location without hurting the local economy. Mr. Parish said he was not in a position to answer that question, inasmuch as he was representing the landowners, not the K-Mart interests.

Mr. Milt Adam, 216 West 14<sup>th</sup>, appeared and referred to Mr. Parish's testimony with respect to the millions of dollars anticipated in the form of revenue from the K-Mart operation, hopefully drawing trade from a 250 mile radius. He said this is not the purpose of a residential shopping center. He said, locally, the business gleaned from K-Mart will be at the expense of other local merchants and noted the fact that there are, presently, many empty business locations within the City. Adam said that, in his opinion, if K-Mart is as large and as capable of drawing business as indicated, they are not dependent on the location as requested and they could prosper as well in some other suitable area, leaving this property for that which it is better suited. He sited, as an example, a freight center, inasmuch as it is conveniently located in the close proximity to an interstate highway and an airport.

Mr. Terry Crapo, local attorney representing one of the petitioners, Mr. William Hatch, appeared before the Council. He referred to the remarks of Mr. Hopkins and expressed appreciation for the fact that he had not accused the petitioners of seeking spot zoning, inasmuch as this had received some attention by other protesters. He said the K-Mart development would be an entire unit within itself and therefore, the concept of spot zoning was not applicable. Crapo referred to the remarks of Mr. Parish and, more specifically, the history of the property in question including the many changes in its character since 1964. He said these changes warrant a change in zoning and

JULY 27, 1972

---

RSC-1 is the most acceptable to all interested or concerned parties. He said the most obvious change in character was a nearby parcel which had been changed to Highway Commercial by court decision. Another illustration, continued Crapo, was the fact that all Airport Industrial Park tenants are either commercial or industrial. He said it was difficult to understand the claim that this would be a commercial enterprise in an otherwise residential area when there are only residences to the west and the south of the area in question. He said that, in his opinion, if the Rupeiks Study were updated, it would recommend RSC-1 zoning, or the equivalent, for this area. He then referred to the many petitions of protest and said he respected them for what they represented but said that petitions of this nature, traditionally, do not take land use into consideration. Therefore, Crapo emphasized the fact that the Council has an obligation to take into consideration not only the protests, but the best interests of all citizens including the best land use for the petitioner to which he has a constitutional right. In all the testimony, Crapo said he had heard little comparison to the RSC zone, versus the M-1 or the commercial zone. He said, without any question, the RSC zone offered more protection to nearby residents when consideration is given to such facets as limited access, setbacks, landscaping, protective lighting etc. He noted the opponents objected to the idea of increased traffic but he registered an opinion to the effect that because of Grandview and Skyline, traffic was destined to increase regardless of the manner in which the Hatch property is ultimately developed, whether it be by one large single unit, such as a K-Mart store, or 10 to 20 tenants which would be less desirable from the standpoint of the nearby resident. Crapo concluded his remarks by saying that RSC-1 is consistent with the Planning Commission recommendation, the Rupeiks Study and the land use plan. He said the Supreme Court would consider only "what is being done or planned for immediate adjacent property today" and the City has already answered this question as evidenced within the Airport Industrial Park.

Mr. Hopkins then reappeared to say that, whether RSC-1 is spot zoning or not, it is still a bad zone for this area. He said the fact that a small portion of the Hatch property was zoned HC in 1966 was immaterial due to its location and proximity to the Interstate. Hopkins said he, representing his clients, was not defending a residential zone north of Grandview, neither was he encouraging nor discouraging an M-1 zone. He said he was only authorized to argue against the proposed RSC-1 rezoning request.

Mrs. Marilyn Thomason, 1765 Shasta, appeared to register concern about Mr. Crapo's remark to the effect that Mr. Hatch might be parceled out to 10-20 tenants. She said this would add substantially to the traffic problem and endanger the safety of the children. Mr. Crapo reappeared to say he did not intend to threaten. He said Mr. Hatch does not intend to develop the property under any other use than that for which it is properly zoned. He said during past years while this property has been changing character by such developments as the Interstate, the Airport Industrial Park, the fire station, etc. Mr. Hatch has been very patient and liberal, even to the point of allowing the property to be used as a sledding hill during the winter. Crapo said, even with several businesses similar to the Computer Center, traffic would still increase. Crapo said he never denied the fact that an RSC-1 development would add to the traffic. He said he only meant to be realistic and say that an RSC-1 development would be the lesser hazard, traffic-wise.

Mrs. Grace Garrett, 1550 West Broadway, appeared to say that the west side residents accept the fact that K-Mart would add to the community's payroll but that it would be just as and more welcome in some other location. She said she saw no reason for concern because of the possibility of many curb cuts which is no criterion as to how much traffic would be generated. She said she was not sympathetic with the fact that Mr. Hatch was having difficulty developing his property at his price, in view of the comparatively nominal investment he had in it.

Mr. Willis Weichel, 795 Hansen, appeared registering concern about the size of the proposed K-Mart and its parking lot as a possible encroachment to the Airport and to airport traffic; also the fact that this rezoning would be precedent setting for other nearby areas, particularly that between

JULY 27, 1972

---

Whitney Street and the Reserve Center; also the fire station as pertains to the traffic problem which, in turn, could jeopardize fire insurance rates.

Mr. William Skinner, 801 Claire View Lane, appeared. As a taxpayer, he said he was concerned about the airport encroachment, regardless of what type of development on the Hatch property. He said he had talked to airline pilots who had also registered concern in this regard. He said he had every confidence that this property would eventually be developed in a manner reasonably satisfactory to all affected interests. Meanwhile, he said airport safety and vehicular traffic were primary problems that must be taken into consideration.

Mr. Parish reappeared to say that the landowners had originally favored a commercial zone but that he had convinced them to petition for RSC-1, even though the development expense would be greater, as a protective measure for the near-by residents due to the advantages, previously mentioned, such as limited access, setbacks, beautification, etc. He said the Rupeiks Report stated that every neighborhood should be supplied with one properly developed shopping center such as the one proposed. Parish noted, in the final analysis, the Planning Commission had recommended that this property be rezoned RSC-1 by a vote of 7 to 4 and this should serve as a mandate to the City Council.

Others appearing for purposes of protesting, asking questions or other comment were: Jake Cordova, 1440 Benton, Walt Reddich, address unknown, Joe Feely, 1510 Bower Drive, Elaine Martin, address unknown, Kenneth Casper, address unknown, Don Taylor, 809 Sonja, M. D. Karnes, 795 Sonja, Wanda Braithwaite, 851 North Skyline. In the absence of further comment, it was moved by Councilman Wood, seconded by Hovey, that the rezoning petition of Hatch, Peterson, Neilson and C. & W. Manhattan Associates be denied. Roll call as follows: Ayes, 5; No, 1; carried. Councilman Freeman voting no. This drew a round of applause from most of those present in the Council Chambers. The Mayor declared a five-minute recess to clear the Council Chambers of those who had no interest in remaining for several other items on the agenda.

After the Mayor had reconvened the Council meeting, Mr. Gilbert St. Clair appeared before the Council as attorney for Mr. John Price, President of John Price and Associates, developer of the Idaho Falls Plaza, otherwise known as the Grand Teton Shopping Center. Mr. St. Clair introduced Mr. Price; also, Mr. Ken Hollingsworth, Vice President and Mr. Dave Benton, Engineer. Mr. Price, acting as spokesman, explained that he was appealing to the Mayor and City Council to permit installation of aluminum pipe, rather than concrete, to serve as surface storm drainage for the construction area in question. He reminded the Council that this product had been successfully used elsewhere and submitted several illustrations accordingly. He said savings to his firm would exceed \$18,000 by the aluminum installation. He also reminded the Council that time was of the essence in a decision, inasmuch as construction deadlines and penalties were a factor. Price said that the Grand Central building would be under a 25 year lease and that Kaiser Aluminum had guaranteed their product for that period of time. Price said that he, rather than the City, would be taking the risk, inasmuch as the lessees were permitted, under the terms of their leases to deduct maintenance costs from their rent in the event of damage sustained from improper drainage. Open conversation revealed the fact that the City had an interest in about 1,000 feet of main line, and in fact, was requiring that said line be larger in size than that necessary to meet immediate construction requirements, and, therefore, the City was participating to that extent in the cost of installation. Mr. Price said he had invited Public Works Director Lloyd to contact other areas that had permitted aluminum pipe as evidence of its satisfactorily accepted usage. Asked for comment, Lloyd appeared to say, first, that time had thus far only permitted one additional contact in anticipation of this meeting; namely, the Multnomah County Public Works Director with whom he had verbally discussed the problem this day. Lloyd said he learned from that source, that there were three essential items for consideration in the use of this material; First, standard corrugated aluminum pipe could not be considered hydraulically comparable to the same size concrete pipe

JULY 27, 1972

---

because of the friction factor necessitating larger aluminum pipe to be comparable to concrete; Second, backfill compaction and bedding of aluminum pipe within the pipe zone was extremely critical. Lloyd said emphasis was given to the need for 6 inch lifts of compaction with a select material. It was pointed out that rocks within the pipe zone could easily be projected through the pipe with modern compaction equipment, this necessitating particularly careful inspection; Third, PH value must lie between 4.8 and 7.0 or rapid deterioration would result. Finally, as a result of the phone call Lloyd learned that Multnomah County was using aluminum pipe in some areas and that there were cost savings. Lloyd then reported to the Council that, just this afternoon, the Water and Sewer Superintendent had sampled the soil within the Grand Central construction area and had found the PH in the range of 12 indicating a high alkaline content, and therefore, he could not recommend use of aluminum pipe within the area in question. Lloyd concluded his remarks by saying that he was not condemning the use of aluminum pipe where conditions might warrant. He said there is an unknown answer, at this time, as to the long term durability of aluminum pipe. He said this is the first time his division had been approached on the matter and therefore he said it would be impractical to give aluminum pipe a nod of approval in any area without further checking. Mr. Price offered, at no expense to the City, to have the soil in question professionally analyzed to prove whether or not said soil was adaptable to aluminum. He said he would have a qualified representative of the Pittsburgh Testing Laboratory test the soil specifically for that purpose. Price then asked for Council approval to use this substitute material, subject to the results of said test. This did not meet with favorable reaction from the Council. The Council was in general agreement that, because of the main line in which the City would have a financial interest, the life expectancy of that line must exceed 25 years. Councilman Erickson proposed that consideration be given to the use of concrete only on that 1,000 feet of main line. This did not meet with general approval, either from other Councilmen or Mr. Price. Mr. Price intimated that if aluminum pipe was not permitted, the City was furthering the local monopoly on the use of concrete products. In the absence of further comment, it was moved by Councilman Gesas, seconded by Karst, that the request in question be denied and that concrete pipe be required according to the original terms of the contract. Roll call as follows: Ayes, 6; No, none; carried.

Councilman Karst introduced the following Resolution in writing, and moved its adoption:

**RESOLUTION REJECTING, OVERRULING AND DENYING OBJECTION  
TO ASSESSMENT ROLL, AND APPROVING AND CONFIRMING SAID  
ASSESSMENT ROLL. (Resolution No. 1972-22)**

“WHEREAS, the City Engineer and Committee on Streets have heretofore made out and certified to the City Council as provided by law an Assessment Roll of Local Improvement District No. 42, and

WHEREAS, on June 22, 1972, the City Council fixed the time and place when and where objections to Assessment Roll by the property owners of said District would be heard, to-wit: Thursday, the 20<sup>th</sup> day of July, 1972, at 7:30 o'clock p.m. of said day at the Council Chambers in the City Building at Idaho Falls, Idaho, and

WHEREAS, notice was duly and regularly given, as provided by law, by the Clerk, of the time to file objections to said Assessment Roll, and

WHEREAS, one objection was filed or made to said Assessment Roll, and

JULY 27, 1972

---

WHEREAS, the City Council, on July 20, 1972, decided to further consider and take under advisement said Assessment Roll, and

WHEREAS, the City Council has decided that said objection should be overruled and denied,

NOW, THEREFORE, BE IT RESOLVED THAT, said Assessment Roll, and each and every item therein, and the whole thereof, be, and the same hereby is, in all respects, approved, ratified and confirmed”.

Councilman Gesas seconded the adoption of the said Resolution, and the same, being put to a vote, was unanimously carried by the affirmative votes of all Councilmen present, the vote being as follows: Councilman Erickson, Councilman Freeman, Councilman Gesas, Councilman Hovey, Councilman Karst and Councilman Wood; Nay; None. Whereupon, the Mayor declared the motion carried.

It was moved by Councilman Wood, seconded by Gesas, that the City Clerk be authorized to advertise for bids on the airport project and that bids be opened on August 15, 1972. Roll call as follows: Ayes, 6; No, none; carried.

It was moved by Councilman Wood, seconded by Gesas, that recent informal Council action in approving an application for FAA funding of the Airport project be duly ratified. Roll call as follows: Ayes, 6; No, none; carried.

It was also moved by Councilman Wood, seconded by Gesas, that recent informal Council action in approving an FAA Airport Lease for an approach lighting system be ratified. Roll call as follows: Ayes, 6; No, none; carried.

There being no further business, it was moved by Councilman Freeman, seconded by Hovey, that the meeting adjourn at 11:10 p.m.; carried.

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ S. Eddie Pedersen  
MAYOR

\*\*\*\*\*