

MARCH 8, 1965

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The City Council of the City of Idaho Falls met in recessed Regular Meeting, Monday, March 8, 1965, at 7:30 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said Meeting: Mayor S. Eddie Pedersen; Councilmen Page, Parish, Freeman, Keller, Leahy, Nelson. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Don Lloyd, Public Works Director; Luther Jenkins, Controller; William Fell, Electrical Engineer.

Minutes of the previous Regular Meeting, held February 18<sup>th</sup>, and a Special Meeting held March 1, 1965 were read and approved.

Notation was made for the record, that Councilman Leahy's absence for the past two Council Meetings was occasioned because he was engaged in official City business as Chairman of the Idaho Municipal League Legislative Committee.

Mrs. James Rabdau, 896 Linden Drive, appeared before the Council regarding the recent re-zoning of the Linden Park Shopping Center and, particularly to inquire as to the reason why the Phillips Petroleum Company had recently, since the re-zoning, applied for another building permit for the same service station on which a building permit was issued prior to the re-zoning. The City Attorney explained that legally, they could have proceeded with construction under the original permit. He said he knew of no reason the second permit was requested except as they voluntarily wished to comply with the requirements under the RSC zone as amended. Mrs. Rabdau asked if she, for example, could ask or petition that her residential property be rezoned and was answered in the affirmative. She asked about the church property west of Linden Drive. She noted that this may not be used for church purposes and expressed concern that it may be rezoned. She was answered to the effect that, to date at least, no request had been made for such action. She also expressed concern that a slow paralysis was seemingly taking over in this area and if residents were not careful they might, over a period of time, find their property depreciated because of this trend. Councilman Parish reminded Mrs. Rabdau that the recent action on the Linden Park Shopping Center did not constitute initial zoning but, instead, rezoning of a nature that, in the opinion of the Council, would make the area compatible with the neighborhood.

Mr. Grant Smith, 160 West Anderson, appeared before the Council representing himself and acting as spokesman for thirteen other property owners on Anderson Street, some of whom were also present, protesting the revised design of the Fairview Street extension on the grounds that it brings heavier traffic within close range of several residents living on Anderson Street than did the original design. Public Works Director Lloyd explained that the redesign was only tentative, had not been approved by the Council and had been proposed by the City Engineer because, engineering-wise, it created less of a hazard at the point that it intersects with Anderson Street. Lloyd Explained, further, that the only authorization granted by the Council, to date, permits the Engineering Department to seek appraisals on land that would be converted to street right of way. Councilman Nelson assured the group that, prior to the time a decision was made, all interested or affected parties would be notified. A meeting was scheduled accordingly at 7:30 P.M. on March 15<sup>th</sup> in the Council Chambers.

At the invitation of the Mayor, Councilman Leahy reported on his recent trip to Boise and the State Legislative Committee. He listed and discussed, briefly, the bills that had been approved and signed by the Governor, those that had been approved but not yet submitted to the Governor, bills passed or introduced through the House, bills passed or introduced through the Senate. He expressed gratitude and satisfaction that the Cities are so well represented by friendly legislators and that a very high percentage of all bills sponsored by the Idaho Municipal League have either passed or are likely to pass both Houses.

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Bills for the month of February, having been properly audited by the Finance Committee, were presented in caption form, to-wit:

| <u>FUND</u>               | <u>GROSS<br/>PAYROLL</u> | <u>SERVICES &amp;<br/>MATERIALS</u> | <u>TOTAL<br/>EXPENDITURES</u> |
|---------------------------|--------------------------|-------------------------------------|-------------------------------|
| General Fund              | \$93,643.08              | \$36,100.35                         | \$129,743.43                  |
| Fire Bonds                | 21,125.19                | 903.52                              | 22,028.71                     |
| Water & Sewer Fund        | 9,306.83                 | 29,131.92                           | 38,438.75                     |
| Electric Light Fund       | 25,558.51                | 90,779.22                           | 116,337.73                    |
| Recreation Fund           | 1,481.77                 | 328.71                              | 1,809.58                      |
| Police Retirement Fund    | <u>1,992.91</u>          | <u>.00</u>                          | <u>1,992.91</u>               |
| <b><u>TOTAL FUNDS</u></b> | <b>\$153,108.29</b>      | <b>\$157,242.82</b>                 | <b>\$310,351.11</b>           |

It was moved by Councilman Parish, seconded by Page, that the bills be approved and the Controller be authorized to draw warrants on the respective funds for their payment. Roll call as follows: Ayes, 6; No, none; carried.

Reports from Division and Department Heads for the month of February were presented and, there being no objection, were ordered placed on file in the office of the City Clerk.

License applications for BARTENDER, Gerald Hicks, Otto Johnson, J. W. Banks, R. Kent Perrenoud, Boyd R. Roberts, Kenneth J. McCormick, Dean Packer, Ray Waters, Madeline A. Banks, Syril Armstrong, Versel A. Peterson, Earl J. Wochner, Kermit Purcell, Wesley W. White, Henry Crew, Jr., Julia Russell, S. C. Montague, Gilbert P. Bloom, LaVerne Jones, Jr., Eugene Peterson; SECOND HAND STORE, C.A. McGuinty for Trading Post; NON-COMMERCIAL KENNEL, H. P. Hill at Fanning Field; PHOTOGRAPHER, Gerald Staker for Staker's Photo & Blueprint, Quincy M. Jensen at 1910 Bittern Avenue; SUNDAY MOTION PICTURE, Falls Theatre, Rio Theatre; BEER, previously approved by the Police Chief, David C. Drysdale for 19<sup>th</sup> Hole Café, Agatha Huth for the Serendipity; HOTEL, MOTEL, ROOMING HOUSE, previously approved by the Police Chief, Wanda Wilson for Ross Motel - 15 rooms, V. Hart for Bonneville Hotel - 94 rooms, Eugene E. Johnson for Smith Cabins - 8 units, Mrs. Ivan Warren & M. A. Miller for Handy Cabins - 12 units, Ross Gillespie for Hotel Idaho - 60 rooms, Ferris H. Clark for Westbank Motel - 119 units, G. L. Nadauld for Flamingo Motel - 80 rooms, J. W. Sullivan for Ray's Motel - 17 rooms, Harry L. Taylor for San Dee Motel - 22 units, Janet Fletcher for Samoa Rooms - 7 rooms, Lew Bradford for Stardust Motor Lodge -102 rooms, Ray Bird for Kruse Motel - 54 units; FOUNTAIN, previously approved by the City Sanitarian, Roger O' Bryant for Skyline Drug; DAIRY, previously approved by the City Sanitarian, Stuart Pugmire for Eastern Idaho Dairy, Mrs. Jared Wirkus for Pleasant Valley Milk Farm, Larry Reed L. Reed for Reed Brothers Dairy; RESTAURANT, previously approved by the City Sanitarian, V. Hart for Bonneville Hotel Coffee Shop, T. P. Grimmett for Tam's Frostop, T. P. Grimmett for Rays In & Out, (2), Millard Devine for Broadway Café, Val Doney for Skylark Restaurant, G. C. Simpson for L.D.S. Hospital, David C. Drysdale for 19<sup>th</sup> Hole Golf Course, Bob Wilkerson for Bob's Arctic Circle, (2); GROCERY STORE, previously approved by the City Sanitarian, Harvey Oswald for Harvey's Store, Nelson Stillwell for Stillwell Drive Inn Dairy; CLASS D GAS FITTING CONTRACTOR, previously approved by the Heating Inspector, Claude Smith for Rogers Brothers Co.; CLASS C

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JOURNEYMAN WET HEAT AND GAS FITTING, previously approved by the Heating Inspector, Elvin R. Connell, Cal Smith; CLASS D JOURNEYMAN GAS FITTING, previously approved by the Heating Inspector, Claude Smith; JOURNEYMAN PLUMBER, previously approved by the Heating Inspector, Cal Smith, Elvin R. Connell; JOURNEYMAN ELECTRICIAN, previously approved by the Electrical Inspector, Max Cobbley, Ray Griffith; ELECTRICAL CONTRACTOR, previously approved by the Electrical Inspector, A. D. Hill, Kay Thurman; RETAIL LIQUOR, C.B. McNeill for Bon Villa Club, J. W. Banks & Dorothy Johnson for the Hub Bar were presented. It was moved by Councilman Leahy, seconded by Freeman, that these licenses be approved. Roll call as follows; Ayes, 6; No, none; carried.

License applications for ELECTRICAL CONTRACTOR, Interstate Electric Company, Inc.; JOURNEYMAN ELECTRICIAN, Lee Roy G. McKellar were presented. It was moved by Councilman Leahy, seconded by Freeman, that these licenses be granted, subject to the approval of the Electrical Inspector. Roll call as follows: Ayes, 6; No, none; carried.

License application for RESTAURANT, Paul Sato for Mary's Café, Jesse R. Walters for Stockyard Café were presented. It was moved by Councilman Freeman, seconded by Leahy, that these licenses be granted, subject to the approval of the City Sanitarian. Roll call as follows: Ayes, 6; No, none; carried.

License application for DANCE HALL, J. W. Banks for The Hub Bar was presented. It was moved by Councilman Freeman, seconded by Leahy, that this license be granted, subject to the approval of the Police Committee. Roll call as follows: Ayes, 6; No, none; carried.

This damage claim was read:

March 8, 1965

Honorable Mayor and City Councilmen

On the 22<sup>nd</sup> day of February, my husband was driving to work at about 15 minutes to 8:00 A.M. and he was going on Iona and Canyon and he was trying to miss a chuck hole and hit dead center in another one and broke the tire off of the "58 Dodge we are buying. Consider this letter as a damage claim accordingly.

s/ Mrs. Edward Sparks  
1200 Canyon  
Idaho Falls, Idaho

It was moved by Councilman Leahy, seconded by Parish, that this be referred to the insurance adjustor for investigation. Roll call as follows: Ayes, 6; No, none; carried.

This denial recommendation was presented, pertaining to the damage claim of Joe Moser.

Safeco, Lifeco General Ins.  
258 Broadway  
Idaho Falls, Idaho  
February 23, 1965

City of Idaho Falls  
Idaho Falls, Idaho

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RE: Your Policy: BLP 232171  
Loss Date: 12-28-64  
Claimant: Joe Moser

To: Mr. Roy C. Barnes  
City Clerk

Dear Mr. Barnes:

We would like to have you express our gratitude to the City Light Department for their preliminary work on checking out this claim and for the report they submitted with your letter. Their preliminary investigation has assisted us in contacting the appropriate parties concerning this loss, saving many hours in its investigation.

I have obtained statements from all of the servicemen who have made repairs on Mr. Moser's appliances. They were unable to definitely contribute the cause to low or high voltage. Some of them stated low or high voltage could have been the cause, but that there were several other things which could have just as easily caused the electrical breakdowns. As you know the City made a check on Mr. Moser's property on December 28, 1964, and again on February 1965; the voltage meter came up with a food service reading.

I contacted the residents on 808 Cleveland Street who are connected to the same transformer as Claimant Moser. They have not had any problem or repairs with any of their electrical appliances for any of the period during which Mr. Moser is making claim of damages.

Since there is no proof of low or high voltage in electrical service to the Moser residence and the damage to his electrical appliances cannot be proven to be caused by a voltage problem, we recommend that we make denial to Mr. Moser concerning his claim.

I will contact you this week and review my investigation with you and answer any questions you may have.

Sincerely yours,  
Safeco Insurance Company  
s/ Merlin D. Colpron  
Claims Adjustor

It was moved by Councilman Leahy, seconded by Parish, that this claim be formally denied. Roll call as follows: Ayes, 6; No, none; carried.

It was noted that the Alton Diamond damage claim denial recommendation had been previously received from the insurance adjustor and referred to the City Attorney for further investigation and a legal opinion, which was presented as follows:

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City of Idaho Falls  
City Attorney  
February 23, 1965

Honorable Mayor S. Eddie Pedersen  
Idaho Falls City Hall  
Idaho Falls, Idaho

RE: CLAIM OF ALTON DIAMOND  
764 E. 15<sup>TH</sup> STREET  
(ELECTRICAL DEPARTMENT)

Dear Mayor Pedersen:

Recently the City Council was requested by its public liability carrier to disallow the above claim upon the general grounds that investigation did not establish legal liability on the part of the City for loss of a refrigerator. The claimant made formal claim against the City in the amount of \$225.00 alleging that the refrigerator motor "burned out" due to low voltage or fluctuation in voltage on November 26, 1964, when the power in claimants area went off repeatedly.

Investigation reveals that the motor on the seven year old refrigerator did cease to function during the power failure, and inspection showed it was "burned out". Low voltage on the line would tend to cause undue heating in the motor windings and could ruin the motor. Repeated switching "off and on" of the power should not damage the motor, however, unless the voltage was low, since the refrigerator mechanism is so constructed as to safeguard the motor against damage by frequent starting and stopping.

City personnel in charge of electrical service state that the main feeder line to claimant's area was, on the day of the power outage, repeatedly blown by a strong wind against a stack at the 17<sup>th</sup> Street Shopping Center, and this caused the interruptions in service. There is no evidence that "low voltage" was furnished to the customers, however. It appears that the service simply was "cut off" repeatedly.

There were no other complaints of damage to electrical appliances in the area served by the affected line whatsoever. This fact tends to corroborate the statement of the City Personnel that low voltage was not furnished.

It appears that there is more likelihood in this case that the "old motor" failed claimant during the service interruptions because the switch mechanism on the refrigerator failed rather than because low voltage was supplied by the City. The undersigned is convinced that the claim was rejected in good faith and upon sound evidence.

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The problem presented by this claim, however, points up an area of trouble and misunderstanding in the Electric Department's public relations and in the City's insurance program.

It is the opinion of the undersigned that no public liability carrier can indemnify the City against loss from, all damage claims at a reasonable premium unless it adopts a reasonably firm policy in denying those claims which are not supported by convincing evidence. This would seem to be particularly true as to claims arising out of the furnishing of electrical (and water) services. Since Idaho Falls owns its own electrical distribution system, its potential exposure to losses is much increased.

The City has two duties it owes to its inhabitants, and others, in relation to damage claims. They may be briefly stated as follows:

- (a) It must carry adequate public liability insurance to protect the public funds from depletion in the event of actionable negligence of its employees and agents. For instance, an employee on City business could negligently kill a person or persons in the street and expose the general fund of the City to a loss of \$100,000.00 or more.
- (b) It owes a duty to all persons with whom it comes in contact to make them, whole for the losses they sustain by reason of "fault" on the part of the City.

It is obvious that this second duty is more of a "moral duty" than a "legal duty" in many areas. It was the growing recognition of this second duty that prompted the passage of a Federal Tort Claims Act and the numerous statutes authorizing states and subdivisions of government to obtain insurance for their motor vehicles, etc. This same recognition of duty has prompted the City to purchase insurance against losses for false arrest and false imprisonment. Without the insurance there is no liability in this type of case.

Perhaps, in addition to the two duties to protect against loss, any large public utility such as ours has a public policy aspect to consider in relation to customer complaints and claims. The City will always be faced with a type of public embarrassment over customer complaints and claims in the Electric Light Department unless certain changes are made in the method of dealing with them. There are many complaints and claims in this Department which are not covered, and cannot be covered, under the public liability policy because they are based upon problems of maintenance or construction defects and not upon "occurrences" or "accidents" at all. There are also many borderline or doubtful liability cases in any business which distributes its product to the consumer.

It is accordingly recommended that a meeting be called by the Mayor, inviting participation by the Head of the Electric Light Department, the insurance carrier, the Council Committeemen over this Department, and the attorney, to explore the possibilities of establishing a more

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direct, and faster, method of resolving the customer complaints in the Electrical Department and the Water Department than we are now following.

Respectfully submitted,  
s/ A. L. Smith  
City Attorney

It was moved by Councilman Leahy, seconded by Page, that the insurance adjustor's recommendation be upheld, that the claim be formally denied, that the meeting be held as recommended to explore the possibilities of establishing a more direct and faster method of resolving customer complaints with reference to electric and water service and that the Diamond damage claim be made the subject of reconsideration at that time. Roll call as follows: Ayes, 6; No, none; carried.

Reference is made to a letter from Markham Advertising Company which can be found on Page 149 in the Book of Minutes and which, at that time was referred to the City Attorney for legal opinion. Following appears said opinion:

February 25, 1965

Mayor S. Eddie Pedersen  
City of Idaho Falls  
P.O. Box 220  
Idaho Falls, Idaho

RE: MARKHAM ADVERTISING COMPANY  
SIGN ON CITY PROPERTY NEAR INTERSTATE NO. 15

Dear Mayor Pedersen:

The above subject was referred to this office for study at the last Council Meeting. It appears that the sign is on City property, off the highway right-of-way far enough to comply with the easement requirements. There is no legal problem involved in granting a lease to the sign owner or in denying the same. I think this matter should be negotiated if a lease is desired. I recommend that the lease be not more that a year at a time, with automatic renewal unless "noticed out".

Sincerely yours,  
s/ A. L. Smith  
City Attorney

It was moved by Councilman Nelson, seconded by Keller, that this be referred to the Fiscal Committee for negotiation with Markham Advertising Company and also for possible renegotiations for all other signs on any and all City owned property. Roll call as follows: Ayes, 6; No, none; carried.

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This memo from the Purchasing Agent was presented:

City of Idaho Falls  
Purchasing Agent  
February 24, 1965

Conductor

Honorable Mayor and Councilmembers:

Tabulation of bids for conductor is attached.

Evaluation of bids received show Electrical Contractor of Idaho Falls, submitting the low bid of \$5,0190.22.

This conductor is to be used for electrical maintenance.

It is the recommendation of the Electric Light Division and the Purchasing Department that the low bid be accepted.

This recommendation subject to your approval.

s/ W. J. Skow  
Purchasing Department

It was moved by Councilman Leahy, seconded by Keller, that the low bid of Electrical Contractor Supply Company be accepted as recommended. Roll call as follows: Ayes, 6; No, none; carried.

This letter was presented and read by the City Clerk:

1546 Beverly Road  
Idaho Falls, Idaho  
February 25, 1965

Mayor Eddie Pedersen  
City Councilmen  
Idaho Falls, Idaho

Sirs:

It is my understanding that funds have been budgeted to build a small swimming pool in Reinhart Park on the west side of Idaho Falls. I also understand that it is planned to use City employees when they are not otherwise occupied for at least part of the construction. I should like to request that you consider starting this construction as soon as possible in order that the

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facility might be available for use this summer and before the City staff becomes inordinately busy with summer maintenance work.

Very truly yours,  
s/ Mrs. Michael S. Moore

This was referred by the Mayor to the Parks and Recreation Director.  
This memo from the Building Official was presented:

City of Idaho Falls  
March 5, 1965

To: Honorable Mayor and Council

We would appreciate your guidance on a question that has come to our attention as follows:

The applicant has an occupied trailer house, on a lot in nonconforming use, and would like to replace this trailer house with another trailer house. We refer you to Section 5-5, Page 59, Section 4-15, Page 20, and Section 3-1-A-C-E, Page 10, of the Zoning Ordinance #1115.

Respectfully,  
s/ Ray Browning  
Building Official

The City Attorney explained that he had advised the Building Official that under the existing ordinance, he had no alternative but to refuse to issue a building permit for any request for a trailer house replacement. It was moved by Councilman Leahy, seconded by Nelson, that the City Attorney be directed to prepare a legal opinion on the subject for presentation to the Planning Commission who, in turn, would be expected to submit a recommendation, with the understanding that said legal opinion and Planning Commission recommendation would also cover the problem of storage of unoccupied trailers on front yards or side yards facing streets. Roll call as follows: Ayes, 6; No, none; carried.

This Resolution was presented from the Controller, through the City Clerk:

**EXHIBIT "A"**

**RESOLUTION (Resolution No. 1965-08)**

**Attachment for Application No. \_\_\_\_\_**

BE IT RESOLVED BY the City Council of the City of Idaho Falls, that Luther I. Jenkins, City Controller be and he is hereby authorized to execute for and in behalf of City of Idaho Falls, a public entity established under the laws of the State of Idaho, this application and to file it in

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the appropriate State Office for the purpose of obtaining certain Federal Disaster Act (Public Law 875, 81<sup>st</sup> Congress; 43 U. S. C. 18-1855g).

Passed and approved this 8<sup>th</sup> day of March, 1965.

s/ Karl G. Page  
Councilman

s/ James Freeman  
Councilman

s/ Philip C. Leahy  
Councilman

s/ Gordon L. Nelson  
Councilman

s/ Dale Parish  
Councilman

s/ Roy J. Keller  
Councilman

It was moved by Councilman Nelson, seconded by Keller, that the resolution be passed and approved as presented and that all Councilmen be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

The City Clerk presented a notice of completion of public work, covering the drilling of Well #11, by Andrew Well Drilling Company. It was moved by Councilman Leahy, seconded by Keller, that the Clerk be authorized to publish, as required by law. Roll call as follows: Ayes, 6; No, none; carried.

Reference is made to Page 129 in the Book of Minutes and a petition prepared by Attorney Reginald Reeves, relative to the abandonment of parking strips of South Skyline, south of Broadway. In this connection, the following memo of recommendation was presented from the Public Works Director:

City of Idaho Falls  
Inter-office Speedimemo  
3-3-1965

TO: Mayor Pedersen  
FROM: Don Lloyd  
SUBJECT: PETITION

This memo is written with reference to a petition concerning South Skyline Drive referred to Engineering 1-21-65. Although the reasons outlined in the petition are not all valid, we would recommend that the roadway surface be developed on a 48' basis to comply with our Collector Street Standards. These Standards have been recently adopted by the Planning Commission, and a print of same is attached hereto. For all practical purposes, we feel the request should be honored on the basis of being a collector street.

It was moved by Councilman Leahy, seconded by Keller, that the Council go on record as endorsing the proposition for the reasons as explained. Roll call as follows: Ayes, 6; No, none; carried.

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At the request of Mr. D. V. Groberg, the City Clerk presented the following, as prepared by Mr. F. R. McAbee on or about November 20<sup>th</sup>, 1964. Mr. Groberg had asked that it be made a matter of record and that it be made clear that this was the instrument to which he was referring when he appeared before the Council on February 18, 1965. The City Clerk explained to the Council that this had been received by him this day, March 8<sup>th</sup>, 1965. The Mayor instructed the Clerk to make this a matter of record as requested.

**ANALYSIS OF R.S.C. - RESIDENTIAL SHOPPING CENTER ZONE SECTION**  
**OF THE COMPREHENSIVE ZONING ORDINANCE FOR THE**  
**CITY OF IDAHO FALLS, IDAHO**  
**ORDINANCE NO. 1115**  
**BY: F. R. MCABEE**

The intent of the Ordinance mentioned above and the sincere effort that has been made to protect residential areas abutting neighborhood shopping centers is commendable. The effect of this proposed Code would, however, eliminate neighborhood shopping centers rather than control them in my opinion.

In the case of Linden Park Shopping Center, we would be confronted with the following restrictions that would create an impossible situation for the developer as well as the merchants.

**7-8-2 DEVELOPMENT PLAN**

Before any territory is added to the RSC-1 Residential Shopping Center Zone, and before any building or structure is constructed within said zone, a preliminary development plan shall show the location of existing and proposed buildings and structures, location of entrances, of loading points, waste disposal facilities, curbs, driveways, driving lanes, parking lanes, fences, walls, malls and open spaces, and the location and size of any detached signs. The plan may be amended from time to time, in harmony with the provisions of this Ordinance, but only after being approved by the Planning Commission and City Council. The Planning Commission's review and approval of such development plan shall be made for the general purpose in mind of guiding and accomplishing a coordinated, adjusted and harmonious development in accordance with existing and future needs, and in accordance with the intent of this zone. In granting approval of a development plan, the Planning Commission shall consider, among other things, protection of property values, preservation of residential amenities in the surrounding areas, characteristics of the surrounding zones, present and future requirement for off-street parking, traffic circulation, and the relation of off-street parking to exit and entrances to streets and buildings.

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In approving a development plan, the Planning Commission may act on plans submitted to it, or may act on its own initiative in preparing and approving a development plan. Where the party desires to develop only a part of the RSC-1 zone at any one time, such information shall be shown on the development plan.

It is hereby declared that any structural alterations, or any enlargement or extension of the RSC-1 Residential Shopping Center Zone shall be contingent upon approval of a development plan by the Planning Commission and City Council. Any structural changes in buildings or other changes or departure which is subsequently made in the approved plans without first having been approved by the Planning Commission and City Council, shall be deemed to constitute a violation of this Ordinance.

It shall be a continuing obligation on the property owner to maintain the off-street parking, landscaping and other features of the plan, as approved; and it shall be unlawful for any owner or any building or use to discontinue, dispense with, or change the plan without first obtaining the approval of the Planning Commission and City Council.

This provisions establishes the Planning Commission and the City Council as final judge of the architect's ability, concept and aesthetic appreciations.

For the Planning Commission and the City Council to venture into a field of architectural design and use of material and texture appears to me far beyond the function of the respective departments, however capable the members may be.

The development of a residential shopping center has to hurdle the same obstacles normal to all shopping centers, plus providing facilities often-times for independent merchants, which seriously complicates the financing of a shopping center.

Further, the uncertainty of retaining the established zoning on the entire site, the uncertainty of acceptance of design and material to be used in construction, and the approvals required in every detail even after completion, would certainly discourage long-time lenders or substantially reduce the amount of funds obtainable.

Further, it must be kept in mind that a merchant large or small must be in a competitive position if they are to survive. This means their total cost of doing business, which includes minimum rental and the cost of maintenance, must not exceed his competitors total expenditure for space.

Further, the negotiating of a lease is very time consuming and often times a difficult document to agree upon and finally consummate. The owner must know his total cost and how the project is to be financed before he can agree to construct the center. The lending institution has to have the preliminary plans and specifications and the financial statement of the tenant before he will give a commitment.

If to the above essential elements the uncertainties inherent in this Provision are included, it is apparent how complicated and frustrating it would be for a developer to obtain tenants or financing.

We have always been vitally interested in modern planning techniques, but what is accomplished if as a result the owner of property cannot afford to improve the property for the use for which it was zoned:

### **7-8-3 USE REQUIREMENTS**

Uses permitted in the RSC-1 Residential Shopping Center Zone shall be limited to those uses which shall harmonize with the intent of the zone. Accordingly, only the following uses shall be permitted in the RSC-1 Residential Shopping Center Zone in accordance with a development plan which has been approved by the Planning Commission and City Council:

- Agricultural - Excluding Nurseries

- Florist Shop

- Garden Supply Stores

- Pet Shop, Hobby Supply Stores

- Barber Shop or Beauty Shop

- Dry Cleaning & Laundry Pick Up Agencies, and Dry Cleaning Establishments which do not clean clothes from other cleaners or pick up agencies

- Pressing, altering and repairing of wearing apparel

- Ice pick up stations

- Music Studios, Record Shops, Radio, Television Repair Shops

- Book and Stationary Stores, Gift Shops

- Camera and Photo Supply Shops

- Confectionery Stores

- Dairy Products Stores

- Delicatessens

- Grocery Stores

- Supermarkets

- Food Catering Services

- Bakeries - on site retail only

- Restaurants, Cafes, Tearooms

- Drug Stores

- Variety Stores

- Dry Goods Stores

- Department Stores

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Clothing Stores  
Shoe Stores and Repair Shops  
Jewelry Stores, including sale and repair of jewelry, watches and small appliances  
Sporting Goods Stores

Hardware Stores  
Fixit Shops  
Wallpaper and Paint Stores

Banks and Financial Institutions  
Office Buildings – Professional Buildings  
Bowling Alley, Pool & Billiard Rooms  
Public and Private Parking Lots

Clinics – Dental & Medical Office Buildings

Service Stations and Public Service Buildings

Store selling a combination of items provided only those items are sold which are commonly sold in the establishments above listed.

Accessory uses and buildings ordinarily pertinent to any of the aforementioned uses.

Child Care Nurseries for temporary care of small children while parents are shopping in the Center

Non-flashing signs advertising services, merchandise or products offered for sale in the building on which the sign is located, provided such signs are attached to and do not protrude more than four (4) feet beyond the wall of the building to which the sign is attached

Traffic direction signs not to exceed four (4) square feet in area, also one shopping center identification sign may be constructed which need not be attached to a building

Other uses similar to the foregoing which uses are ruled by the City Council to be in harmony with the intent of this zone

Manufacturing, processing and/or fabrication shall be limited to products sold at retail on the premises

The Provisions of this Section are adequate to satisfy the needs of Linden Park Shopping Center.

**7-8-4 AREA REQUIREMENTS**

Each RSC-1 Residential Shopping Center Zone shall contain at least two (2) acres, but not more than twenty (20) acres, unless it can be shown that the objectives of the land use plan can be better satisfied by designating a greater or lesser amount of land in said zone. There shall be no maximum area requirements for any individual lot or building contained within the RSC-1 Zone, except as required for setback and off street parking space.

This Provision presents no problem.

**7-8-5 WIDTH REQUIREMENTS**

Each RSC-1 Residential Shopping Center Zone shall have a width of at least four hundred (400) feet along an abutting street. However, there shall be no maximum or minimum width requirements for any individual building or lot contained within an RSC-1 Zone.

This Provision presents no problem.

**7-8-6 LOCATION REQUIREMENTS**

All buildings and structures shall be located within the zone so as to comply with the development plan as approved by the Planning Commission, except that in no case shall buildings be set back less than fifty (50) feet from the front street line, or closer than thirty (30) feet from the side street line or side or rear zone boundary line.

This Provision presents no problem.

**7-8-7 HEIGHT REQUIREMENTS**

The maximum height of any building measured from the grade to the square of the building shall be thirty-five (35) feet. Chimneys, flag poles, television antennas, and similar structures shall be excluded in determining height of a building. No minimum shall be required for buildings.

This Provision presents no problem.

**7-8-8 SIZE OF BUILDINGS**

No requirements.

This Provision presents no problem.

**7-8-9 SPECIAL PROVISIONS**

**A. Development Time**

It is intended that the improvements as shown on the development plan shall be started within a period of twelve months and shall be completed and ready for occupancy within a period of thirty (30) months from the date of zone designation by the City Council. The City Council may re-classify into another zone any or all of the territory covered by the development plan, if actual development does not occur within the specified time. Assurances that the improvements indicated on the plan will be made within the time specified must be furnished to the City Council before an RSC-1 Zone can be created or expanded.

The Provisions of this Section are very unrealistic, and if followed would require a residential shopping center site to be rezoned year after year, until the purchasing power of the neighborhood justified the development and the merchants could be assured of sufficient purchasing power in the trade area to make their respective stores successful.

Further, if sites are not set aside and held for neighborhood centers, a comprehensive plan would be void of convenient shopping for residential areas.

If the developers of residential shopping centers are forced to act prematurely, due to time limitation, the result could be regrettable for years to come for the surrounding property owners as well as the developers and merchants.

**B. Landscaping**

The privilege of providing the services to the residents in the surrounding neighborhood carries with it a corresponding responsibility to construct and maintain the premises in harmony with the characteristics of the surrounding zone. Therefore, a landscaped strip of lawn, shrubbery and/or trees, at least thirty (30) feet in width shall be provided and maintained along the entire length of any street within the zone, and along the development side of any street bordering said development, except for permitted driveways.

This Provision is confiscatory and economically infeasible in its effect on Linden Park Shopping Center as this would reduce the useable ground to an impractical size for development and greatly increase costs.

|                          |             |
|--------------------------|-------------|
| 30 feet on Ninth Street  | 24,000 feet |
| 30 feet on Russet Avenue | 24,000 feet |
| 30 feet on Linden Drive  | 13,200 feet |
| 30 feet on Lincoln Drive | 13,200 feet |

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This Provision requires one and two-thirds (1 2/3) acres of lawn and/or shrubbery and/or trees.

The initial cost would be prohibitive, and maintenance cost would put the square foot rental of floor space out of range for the tenant if maintained by the Linden Park Shopping Center Corporation.

If the tenants assumed the responsibility for this large area designated for landscaping, the result would no doubt become very unsightly due to neglect, as the merchants could not afford the time or expense to maintain the lawn and shrubs properly.

Adequate screening can be provided with trees and shrubs in a planting area from 5' to 10' in width that would shield the adjoining homes and soften the view of the parking area and structures economically feasible.

The land restrictions set forth determine what percentage of the land can be used for buildings. The approximate size of Linden Park Shopping Center is 800' X 500', or a total of 4,000,000 square feet, totaling 9.18 acres.

|                                  |                                |
|----------------------------------|--------------------------------|
| Planting Area                    | 74,400 square feet             |
| Unloading Area                   | <u>1,620 square feet</u>       |
| Total                            | 76,020 square feet             |
| 76,020 square feet from total of |                                |
| 400,000 square feet              | 323,980 square feet            |
| 25% of 323,980                   | 80,995 square feet of building |

The net result of the Provision in the development of Linden Park Shopping Center reduces the structures to 20% of the land area.

From the economic viewpoint, we have substantially reduced the rentable space and at the same time increased the outside maintenance to a point beyond the ability of the merchants to pay and remain competitive.

### **C. Storage**

All storage and activities, except loading and unloading, and automobile parking and refueling, shall be conducted entirely within a building, provided that Christmas trees and other seasonal items may be stored and sold outside of a building.

This Provision presents no problems.

### **D. Maintenance of Premises**

No dust, odor , smoke, vibration or intermittent light, glare or noise shall be permitted which is discernable beyond the premises, except for normal movement of automobile traffic.

The Provision should be broad enough to include incinerators of approved design.

**E. Off-Street Parking Space**

All off-street parking space shall be hard-surfaced. No off-street parking space shall be located in between a street and any building unless the building is located at least sixty (60) feet from the street. Bumper guards shall also be provided, as required by the Planning Commission, so as to protect the landscaping.

This Provision presents no problem.

**F. Residential buildings, churches, schools, and industrial uses and buildings shall not be permitted in any RSC-1 Zone.**

Not Applicable

**G. Building Standards**

All buildings shall be constructed so as to be architecturally harmonious, in the opinion of the Planning Commission, with the characteristics of the surrounding area. Only approved type of materials shall be used. A plan showing architectural design and specifications of materials to be used on the exterior of all buildings to be constructed shall be submitted to and approved by the Planning Commission before issuance of any building permit. Where parking area abuts adjacent private property, a masonry wall, ornamental fence, or planter strip, as the Planning Commission shall determine to be most suitable, shall be erected. Additional landscaping may be required to further protect abutting land use or zones.

This Provision is crippling in its effect, due to a multitude of approvals required for structures. The concept is fine and the desired result is obtainable, but this Provision is unnecessarily restrictive for architect and developer in its present form.

The time element in obtaining the approvals of Planning Commission would create serious delays and would increase costs substantially.

The architect should be granted professional liberty of design as long as it is harmonious and complimentary to surrounding development.

**H. Lighting**

All lighting shall be indirect or shielded and so designed as to reflect away from adjoining residences.

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This Provision presents no problem.

**I. Vehicular Access**

No driveway shall be located closer than one hundred fifty (150) feet to the point of intersection of the front property line with the side property line which abuts upon a street, except that the Planning Commission may authorize a lesser distance along a minor street when it can be shown that traffic congestion or hazards will not be increased thereby.

This Provision should be modified at the intersection where a service station is located within the center by permitting access and egress to the facilities.

Experience has shown service stations are convenience services and do not add to traffic congestion. Instead they usually reduce hazards due to visibility and adequate paved area for deceleration and for cars waiting to turn to the traffic lanes in the abutting streets.

The City Clerk drew attention to the need for scheduling a public zoning hearing for certain areas requiring zoning or rezoning. It was moved by Councilman Nelson, seconded by Freeman, that the City Clerk be authorized to publish notice and that the hearing be set for April 8<sup>th</sup>, 1965. Roll call as follows: Ayes, 6; No, none; carried.

The following memo, prepared by the Electrical Engineer and directed to the City Attorney, was read:

MEMORANDUM  
March 8, 1965

TO: Art Smith, City Attorney  
FROM: W. H. Fell

Attached is a copy of correspondence from General Electric Company dated February 23, 1965, regarding anti-trust settlement and litigation operation. We are attempting to determine what materials were purchased during the period of 1956 to 1959 from General Electric in order that the 5% adjustment may be secured for the City. I am sure that during this period of time there were many thousands of dollars of equipment purchased by the City that is on the applicable list. Our present Electrical Division records do not include information during this period of time, however, I have sent information to Mr. Jenkins in order to provide as complete and adequate a record during this period of time as possible. Actually, General Electric Company, G. E. Supply Co., and Graybar Company of Salt Lake City undoubtedly have these particular records, in detail, in their office files if we are in a position to secure them by any means.

s/ W. H. Fell

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It was moved by Councilman Leahy, seconded by Keller, that this be referred to the Controller, the Electrical Engineer and the City Attorney as a means of searching the records to accurately determine what equipment and materials were purchased through General Electric so that the 5% adjustment might be made as proposed. Roll call as follows: Ayes, 6, No, none; carried.

Public Works Director Lloyd made reference to a left turn bay which permits southbound traffic on North Yellowstone to turn left and enter First Street or to make a u-turn on North Yellowstone. He recommended that the Council, in turn, recommend to the State Highway Department that this be closed on the grounds that it constitutes a traffic hazard. It was moved by Councilman Nelson, seconded by Parish, that this be tabled, pending an investigation whereby the First Street merchants be contacted and heard to ascertain their reaction to said proposal. Roll call as follows: Ayes, 6; No, none; carried.

Lloyd then drew attention to the fact that a committee had been formed to lay out an emergency flood plan and that Bonneville County, the City of Ammon and Flood Control District #1 were other interested parties. He said the City's share of costs to develop an emergency communication center would be \$250.00. Other costs to the City, he explained further, would be \$10.00 for a telephone installation plus \$4.00 per month for its operation, \$6.00 for installation of a hand set plus \$4.00 a month for its operation, plus \$1,436.00 for sand bags. This was referred to the Fiscal Committee and Councilman Leahy to determine the availability of funds and, if found, where it would be most justifiable chargeable.

There being no further business, it was moved by Councilman Page, seconded by Leahy, that the Meeting adjourn. Carried.

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ S. Eddie Pedersen  
MAYOR

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