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The City Council of the City of Idaho Falls met in Regular Meeting, Thursday, November 19, 1964 at 7:30 P.M. in the Council Chambers at Idaho Falls, Idaho. There were present at said Meeting: Mayor S. Eddie Pedersen; Councilmen Parish, Freeman, Keller, Leahy, Nelson, and Page. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Ray Browning, Building Official.

Minutes of the last Recessed Regular Meeting, held November 9th, 1964 were read and approved.

The Mayor announced that this was the time and the place for a public hearing, as advertised, for the rezoning of certain properties and the consideration of certain amendments to the zoning ordinance. Noting an overflow crowd in the Council Chambers he declared the Meeting recessed, to reconvene in the District Court Chambers in the Bonneville County Court House.

First to be considered was the Conrad and Bischoff property described as Lots 39 through 44, Block 11, Capitol Hill Addition. The Mayor noted that the petitioners had requested that their petition for rezoning be withdrawn. Therefore, it was moved by Councilman Parish, seconded by Page, that this area be not considered for rezoning this night. Roll call as follows: Ayes, 6; No, none; carried.

Next to be considered was an unplatted tract owned by William Hatch, located north of Grandview and east of Skyline on which the petitioner has requested that the zoning be changed from R3-A to C-1. Mr. George Petersen, local attorney, appeared before the Council representing Mr. Hatch and explained that the present zoning is not acceptable, due to the fact that Grandview is or will be an arterial street. He said the owner has contracted a portion of the property to a lessee for a service station, subject to the change of zone. Mr. Donald Suckling, 1545 Claire View Lane, appeared before the Council representing certain nearby residents from Temple View and registered protest to the requested rezoning on the grounds that the residents objected to commercial activity this close to their homes and that property values would be adversely affected. Mr. Suckling said that, in his estimation, the street and the area would be conducive to multiple dwelling or professional buildings. It was moved by Councilman Page, seconded by Keller, that the area be not rezoned and that the existing R-3A zone be sustained. Roll call as follows: Ayes, 5; Parish, Nay; carried.

Lot 13, Block 1, Linden Park Addition, Division #1, commonly referred to as the Linden Park Shopping Center site, was then introduced. It was noted that many near by residents had previously protested any commercial development on this lot and had petitioned the City to purchase it for a park or rezone it R-1.

Mr. Howard Nobel appeared before the Council representing the Planning Commission and explained that said Commission had recommended that the area be zoned RSC-1 which was as close as possible to the existing zone. He defined the RSC zone by reference to Ordinance #1115.

Mr. John Hansen, local attorney, appeared before the Council representing the nearby affected residents and registered a protest against any manner of commercial zoning on the grounds that residential property values would suffer. Further, he registered concern from the standpoint of the safety factor, particularly as it would affect the children with the majority of the Linden School students coming from west of the canal. He stressed the need for a park. He submitted that the owners' rights to develop commercially should be forfeited, due to the many years the land has remained undeveloped.

Mrs. Molly Micek, 1035 12th, appeared and drew attention to the fact that this area was only five blocks from a supermarket and eight blocks from two shopping centers. She said this City has too many shopping centers and too few parks. In other appearances during the evening she also protested any commercial development in this plot on the grounds of safety, residential property deterioration and commercial precedent setting on 9th Street.

Mr. Ira Stanley, representing the Linden Park P.T.A., appeared to advise the Council that that group had gone on record as supporting the Rice petition. He pointed out that this P.T.A. represents 376 families and 526 children. He warned that a commercial development in this area would create a safety hazard and cited Albertson's as an illustration.

Mr. Stanley Yamamura also appeared in behalf of that P.T.A. to register a protest against commercial zoning.

Mr. Val Johnson, 860 8th Street, appeared and presented statistics to prove that the highest percentage of chargeable accidents take place in heavy traffic areas, that a high percentage of chargeable accidents involve small children and that children are often times at fault due to the fact that they are neither mature nor responsible.

Mr. Percy Rice, 920 7th Street, appeared, and as the party responsible for the original petition which asked that the City purchase the area for a park or zone R-1, registered a verbal protest to a commercial development on the grounds that it would create a safety hazard and that a shopping center in this location is inconsistent and incompatible. He said the members of the Congregational Church concur.

Others who protested on the grounds as previously mentioned were R. E Williams, 870 7th, Carol Schmid, 925 Davidson, Edward Brooks, 818 Maplewood Drive, Jack Hagen, 1240 9th, Gilbert Bloom, 1080 9th Street, Robert Goodman, 110 9th, Rex Harris, 1080 10th, Mrs. James Rabdau, 896 Linden Drive, A. W. Solbrig, 608 S. Fanning, Ron Schmid, 925 Davidson, D. R. Alvord, 890 8th, Robert Dairy, 940 9th, A. L. Ayeres, 669 Safstrom Drive, Laddy Dale, 830 Linden Drive.

Mr. David Benton, local engineer, appeared and said he had originally assisted in the laying out of the area as a shopping center. He said the developers have at all times had the interests of the residents at heart and they desire to develop the entire area rather than piece meal so that it can be completely planned as an asset to the neighborhood and that safety hazards would be eliminated.

Mr. Gilbert St. Clair, local attorney representing the property owners, appeared before the Council and stressed the fact that the owners have purposely waited for the residential area to build up to the point that a shopping center would be warranted and that, during that period, the owners had complete faith that the City would not jeopardize their position by a change of zone. He then presented the following protest petition which was read by the City Clerk:

PROTEST PETITION

Comes now, Linden Park Shopping Center, Inc., an Idaho Corporation, the sole owner of the real property hereinafter described, for the purpose of filing a written protest as provided in Idaho Code 50-405, to a suggested and requested change on zone to that certain

real property located in the County of Bonneville, State of Idaho, and described as follows: to-wit:

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Lots One (1) to Thirteen (13), inclusive, Block One (1), Linden Park Addition, Division Number One (1), to the City of Idaho Falls as per the recorded plat thereof:

hereby registers its protest to the change of zone of the above described property presently zoned C-1 as provided by the zoning ordinance recently adopted by the City of Idaho Falls, as requested by the adjacent property owners for rezoning said above described property to an R-1 Residential zone.

The undersigned corporation hereby registers its protest to the requested zoning change for the following reasons:

1. The property in question has carried a business zone since 1949, at which time the surrounding properties had not been developed, that the development of the surrounding properties has taken place with full knowledge of said adjacent property owners, that said property in question has been for many years past set aside and zoned for future business development.

2. The undersigned corporation has of the date of this petition expended a considerable amount of moneys toward the development of the above described property for business purposes and said development on the Land-Use Plan of the City of Idaho Falls.

3. That the development of the above described real property for business purposes has been considered and is definitely shown as a business development on the Land-Use Plan of the City of Idaho Falls.

4. That all of the petitioners requesting the change of zone to this protestant's real property purchased their real property with the notice and understanding that the real property above described was zoned for business purposes.

5. That any action changing the zone at this time would be arbitrary, discriminatory and that it in effect would be an attempt on the part of the City to use its police power to take protestant's property without due process of law and without payment of compensation for the taking.

6. That all of the facts in this case will show without question that there has not been any change in the character of the subject property or the surrounding neighborhood since that adoption of the comprehensive zoning plan adopted by the Council some months ago.

Respectfully submitted,
Linden Park Shopping Ctr.
s/ Paul C. Holm, V. P.

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Mr. F. R. McAbee, one of the property owners, appeared before the Council and gave a background history of the shopping center corporation. He said this area has been selected because all indications were that it represented the most attractive growth area of the City. He said the City Council reaffirmed the commercial zoning as recently as 1959. He said a complete study had been made of the area development by a nationally recognized development analyst firm. He pointed out that the corporation has had many opportunities to sell portions of the area but that they refused because they did not wish to lose planning control. He assured the residents that their development plans would be complimentary to the community and the City.

Mr. R. L. Taylor of the Phillips Petroleum Company appeared and explained that their proposed service station would be part of the shopping center, that it would be a cottage type station constructed of roman brick and that their experience has been that this type of station blends into the neighborhood and is not offensive. He also said that accidents and fire risks around modern service stations are low.

Mr. D. V. Groberg, one of the owners, appeared briefly and expressed appreciation and gratitude for the development of the area to date.

Councilman Nelson and Parish agreed that this problem could not be resolved this night and that more time was necessary for study and consideration. Other Councilmen concurred. Therefore, the Mayor declared that this portion of the hearing be recessed until December 22, 1964. The property owners agreed to refrain from any commercial development in the interim period. It was moved by Councilman Leahy, seconded by Parish, that appreciation and thanks be extended to the property owners for their cooperative decision in this regard. Roll call as follows: Ayes, 6; No, none; carried.

The Council then considered an amendment in Section 5-8-A of the zoning ordinance which would provide for nine members on the Board of Adjustments instead of seven. There were no protests. It was moved by Councilman Nelson, seconded by Parish, that the ordinance be amended accordingly. Roll call as follows: Ayes, 6; No, none; carried.

Other amendments were considered in Section 5-8-E, 3-2-B, and 5-9-B which would provide for the Building Official dealing directly with those filing for appeals and petitions, rather than the City Clerk. There were no protests. It was moved by Councilman Freeman, seconded by Keller, that the ordinance be amended accordingly. Roll call as follows: Ayes, 6; No, none; carried.

Next to be considered was a change in Section 7-3-5, 7-4-5, and 7-5-5 of the ordinance which would alter the requirements concerning the size of yards. No protests were registered. It was noted that the Planning Commission was recommending as follows:

1. Under same interpretations, as prior to the new Ordinance , the 15′ set-back be allowed.

2. Accessory building requirements be changed to old standards of 3′ from rear lot line.

3. Developers and platters of new sub-divisions be encouraged to design corner lots of larger size than interior lots.

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4. The requirement for choice of facing house to side yard on corner lots needing Board of Adjustment approval should be deleted.

It was moved by Councilman Parish, seconded by Nelson, that the foregoing be adopted as pertains to the aforementioned sections except that the words "rear lot line" in #2 be changed to read "alley line" and that all this be subject to confirmation by the Planning Commission as to intent and interpretation because of the change of wording. Roll as follows: Ayes, 6; No, none; carried.

The next parcel which had been advertised for re-zoning was Lots 21, 22, and the north half of Lot 23, Block 29, and 7,279 square feet north of Lot 21, Block 29, Highland Park Addition. The Mayor drew attention to the fact that the petitioner had requested that his petition be withdrawn. It was moved by Councilman Page, seconded by Freeman, that the withdrawal request be granted. Roll call as follows: Ayes, 6; No, none; carried.

The following was then presented for re-zoning:

Lots 1 through 5, Block 5; Lots 1 through 9, Block 6; Lots 1 through 17, Block 3 in University Manors #1; Lots 6 through 25, Block 5; Lots 18 through 27, Block 3; Lots 1 through 21, Block 4, Lots 12, 13, 14, Block 2 in University Manors #2; Lots 10 through 16, Block 6, in the first amended plat of University Manors #1

There were no protests. It was moved by Councilman Nelson, seconded by Parish, that these lots be rezoned from RPA to R-1. Roll call as follows: Ayes, 6; No, none; carried.

Lot 1, Block 2, Strobel Addition, Division #1 was then made the subject of rezoning. There were no protests. The City Clerk drew attention to a written statement by Mr. Ed Strobel, apologizing for not being present and explaining that he still had definite plans for a commercial development on this lot. It was noted that the Planning Commission had recommended that his petition asking that this lot be rezoned from R-3 to C-1 be denied. The Council recognized that this property had been rezoned commercial on February 15, 1962 on the condition that commercial development be limited to a book and church supply store. Asked by a Councilman if this were legally permissible, the City Attorney said it might be but there were no test cases on record to either prove or disprove the legality. It was moved by Councilman Parish, seconded by Page, that this be referred back to the Planning Commission for reconsideration with the understanding that the petitioner would agree to a written signed statement as to his intended use of the property. Roll call as follows: Ayes, 6; No, none; carried.

The Klingenberg property was then considered, described as follows:

Tract 7 – Beginning at a point 30 feet north and 434 ½ feet east of the SW corner Section 13, T 2N, R 37, E.B.M.; thence east 80 ft.; thence north 441 ½ feet to south side of ditch bank; thence along bank south 55°10′32″ west 140 feet; thence south 326 ½ feet to the point of beginning.

No protests were registered. It was move by Councilman Keller, seconded by Freeman, that this area be rezoned from R-1 to HC-1. Roll call as follows: Ayes, 6; No, none; carried.

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The Duane Mitchell property, described as Lots 1 and 2, Block 8, Crows Addition was then reviewed. No protests were recorded. It was moved by Councilman Page, seconded by Freeman, that this be rezoned from R-3 to R-3A. Roll call as follows: Ayes, 6; No, none; carried.

This legally described parcel, owned by Calvin Johnson, was then considered:

Triangle area bounded by canal on the east and north and 17th Street on south. All of Blocks 64, 57, Lots 25 through 48, Block 63; Lots 1 through 20, Block 63; Lots 29 through 42, Block 56, Lots 39 through 48, Block 58, Crows Addition.

No protests were received. It was moved by Councilman Leahy, seconded by Freeman, that the entire triangular area be rezoned R-2 except for the lots facing 17th Street which would remain R-1. Roll call as follows: Ayes, 6; No, none; carried.

Lots 45 through 48, Block 32, Capitol Hill Addition, owned by Parley Rigby and Delretta Alice Cook, were then considered. Written protests were received from Dean Pfost, Paul Schwabedissen and Leo Higgins. The Council noted that the Planning Commission had recommended denial. Therefore, it was moved by Councilman Leahy, seconded by Page, that the petition requesting that this area be rezoned from R-3A to C-Ltd. be denied. Roll call as follows: Ayes, 6; No, none; carried.

This legally described parcel, owned by Calvin Johnson, was then considered:

Triangle area bounded by canal on the east and north and 17th Street on south. All of Blocks 64, 57, Lots 25 through 48, Block 63; Lots 1 through 20, Block 63; Lots 29 through 42, Block 56, Lots 39 through 48, Block 58, Crows Addition.

No protests were received. It was moved by Councilman Leahy, seconded by Freeman, that the entire triangular area be rezoned R-2 except for the lots facing 17th Street which would remain R-1. Roll call as follows: Ayes, 6; No, none; carried.

Lots 45 through 48, Block 32, Capitol Hill Addition, owned by Parley Rigby and Delretta Alice Cook, were then considered. Written protests were received from Dean Pfost, Paul Schwabedissen and Leo Higgins. The Council noted that the Planning Commission had recommended denial. Therefore, it was moved by Councilman Leahy, seconded by Page, that the petition requesting that this area be rezoned from R-3A to C-Ltd. be denied. Roll call as follows: Ayes, 6; No, none; carried.

Finally, the O. H. Hansen property was the subject of rezoning discussion. This was described as Lot 11, Block 4, Westland Heights Addition #3. No protests were registered. It was moved by

Councilman Leahy, seconded by Page, that this lot be rezoned from R-3A to C-1. Roll call as follows: Ayes, 6; No, none; carried.

From the Planning Commission minutes the Council noted certain instances where the group had recommended certain changes in the land use map. The Council agreed that this should be a decision for the Planning Commission and that no Council action was required.

The Mayor instructed the Building Official to incorporate these various zoning changes on the official zoning map, located in his office and, also, the City Attorney was instructed and authorized to

prepare an amending ordinance which would incorporate said rezoning as well as the other amendments which were approved.

The Mayor declared the position of City Engineer, formerly held by Public Works Director Donald F. Lloyd, as vacant. It was moved by Councilman Keller, seconded by Nelson, that this position be considered vacant as declared. Roll call as follows: Ayes, 6; No, none; carried.

The Mayor appointed Mr. Robert E. Sandersfeld to the position of City Engineer. It was moved by Councilman Leahy, seconded by Keller, that this appointment be confirmed. Roll call as follows: Ayes, 6; No, none; carried.

License applications for BEER (change of ownership only), Joseph Junk for Buckhorn Bar; BEER (canned and bottled, not to be consumed on the premises), Don Jones for Village Market, John A. Reece for Skaggs Drug Center Inc.; BEER (canned, bottled and draft to be consumed on the premises), Goldy E. Taylor for Stockman's Bar were presented. It was moved by Councilman Freeman, seconded by Page, that these licenses be granted, subject to the approval of the Police Chief. Roll call as follows: Ayes, 6; No, none; carried.

An audit contract was presented from Williams & Gaskill covering the period from January 1st to December 31st, 1964, accompanied by a memorandum from the Controller recommending that it be approved and accepted. It was moved by Councilman Parish, seconded by Leahy, that the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, 6; No, none; carried.

A bill was presented from the Idaho Falls Monument Company in the amount of $100.00, representing damage to a marker on the Ingram cemetery property by City crews last winter. It was moved by Councilman Leahy, seconded by Parish, that this be approved for payment from the General Fund. Roll call as follows: Ayes, 6; No, none; carried.

The City Clerk drew attention to the need for a legal notice covering the sale at auction of a City owned parking lot on Eastern Avenue described as Lot 4, Block 24, Original Townsite. It was moved by Councilman Freeman, seconded by Nelson, that the City Attorney be authorized to prepare and the City Clerk be authorized to publish said notice, as required by law. Roll call as follows: Ayes, 6; No, none; carried.

The City Clerk drew attention to several areas in need of rezoning consideration. It was moved by Councilman Leahy, seconded by Parish, that a zoning hearing be scheduled for December 22nd, 1964 and that the City Clerk be authorized to publish notice accordingly. Ayes, 6; No, none; carried.

Councilman Nelson reported on a proposition by Charles Cope and Kenneth Cook relative to the sale of their building, located on City owned land, to the City. It was noted that said building is

presently being used by the Idaho Aviation Center for maintenance. No Council action was expected at this time.

The Mayor appointed Richard Clayton, Reed Cook and F. O. Simonson as independent appraisers for purposes of appraising a piece of City owned property in which Mr. Ernie Ellswood has indicated an interest, said property of which is located adjacent to property in that area now owned by Mr. Ellswood. At the same time the Mayor appointed these same men to appraise Lot 13, Block 1, Linden Park Addition, Division #1, commonly referred to as the Linden Park Shopping Center area site. It was moved by Councilman Parish, seconded by Freeman, that the appointment of

these men for the appraisals as described be approved. Roll call as follows: Ayes, 6; No, none; carried.

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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