

NOVEMBER 10, 2005

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, November 10, 2005, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor ProTem Ida Hardcastle
Councilmember Thomas Hally
Councilmember Larry Lyon
Councilmember Michael Lehto
Councilmember Joe Groberg
Councilmember Bill Shurtleff

Absent:

Mayor Linda Milam

Also present:

Dale Storer, City Attorney
Rosemarie Anderson, City Clerk
All available Division Directors

Mayor ProTem Hardcastle requested Boy Scout Isaac Hansen to come forward and lead those present in the Pledge of Allegiance.

Mayor ProTem Hardcastle announced that on Saturday, November 12, 2005 at 5:40 p.m., 58 soldiers from the Idaho National Guard's 116th Infantry Brigade Combat Team will be arriving at the Idaho Falls Regional Airport. Also, on Monday, November 14, 2005, at 12:10 p.m. another 58 soldiers will be arriving at the Idaho Falls Regional Airport. Following the arrival on Monday, there will be a parade honoring those soldiers and their families. It will begin on International Way, up South Skyline Drive, right on Grandview Drive and Bellin Road, and then left on West Broadway. This parade will then proceed to the Museum of Idaho.

CONSENT AGENDA ITEMS

The City Clerk requested approval of the Minutes from the October 27, 2005 Regular Council Meeting.

The City Clerk presented monthly reports from various Division and Department Heads and requested that they be accepted and placed on file in the City Clerk's Office.

The City Clerk presented the following Expenditure Summary dated October 1, 2005 through October 31, 2005, after having been audited by the Fiscal Committee and paid by the Controller:

<u>FUND</u>	<u>TOTAL EXPENDITURE</u>
General Fund	\$ 804,586.58
Street Fund	142,174.24
Recreation Fund	21,713.52
Library Fund	65,639.61
Municipal Equipment Replacement Fund	216,715.21
Electric Light Public Purpose Fund	27,212.70

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Business Improvement District Fund	11,452.00
Sanitary Sewer Capital Improvement Fund	218,983.80
Street Capital Improvement Fund	534,963.07
Water Capital Improvement Fund	28,887.10
Surface Drainage Fund	2,055.30
Traffic Light Capital Improvement Fund	2,042.50
Airport Fund	1,639,321.01
Water and Sewer Fund	333,103.07
Sanitation Fund	3,935.15
Ambulance Fund	8,435.41
Electric Light Fund	3,031,632.79
Payroll Liability Fund	2,116,977.13
TOTALS	\$ 9,209,730.19

The City Clerk presented several license applications, including BEER LICENSES to Alexandra's Musica Latina, Collage LLC, Chili's Grill and Bar, K C's Food Mart, La Reyna Meat Market, O'Callahan's Restaurant, and Skyline Lanes, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on November 10, 2005.

The Municipal Services Director submitted the following memo:

City of Idaho Falls
October 6, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: ADVERTISEMENT FOR BIDS

Municipal Services respectfully requests authorization to advertise to receive bids for a Parallelogram Hoist, a freestanding six post hoist system and a bridge crane to be used in the new Vehicle Maintenance Facility.

s/ S. Craig Lords

The Parks and Recreation Director submitted the following memo:

City of Idaho Falls
November 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: AUTHORIZATION TO BID – MCDERMOTT FIELD STADIUM RECONSTRUCTION

The Division of Parks and Recreation respectfully requests authorization to receive bids for the reconstruction of the McDermott Field Stadium located in Highland Park.

s/ David J. Christiansen

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Councilmember Hally requested that the memo from the Parks and Recreation Director regarding authorization to advertise to receive bids for the McDermott Field Stadium Reconstruction be moved to the Regular Agenda.

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, that the remainder of the Consent Agenda be approved in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Lyon
Councilmember Shurtleff
Councilmember Hally
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor ProTem Hardcastle requested Councilmember Groberg to conduct a public hearing for consideration of an amendment to the Comprehensive Plan for higher density residential to low density residential located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal, legally described as Linden Park Addition, Division No. 7; Linden Park Addition, Division No. 2, Block 10, Lots 11-19; Block 8, Lot 25; Block 11, Lot 2; Block 12, Lots 1-5 and 7; also, 1.1 Acres of the Northeast Corner of the Northeast Quarter of the Northeast Quarter, West Canal, Section 20, Township 2 North, Range 38 East of the Boise Meridian. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST FOR COMPREHENSIVE PLAN AMENDMENT, HIGH DENSITY RESIDENTIAL TO LOW DENSITY RESIDENTIAL, PORTIONS OF LINDEN PARK ADDITION SOUTH OF FIRST STREET, NORTH OF NINTH STREET, AND WEST OF ST. CLAIR ROAD

Attached is the request to amend the Comprehensive Plan for approximately 15 acres bounded roughly by First Street on the north, St. Clair Road on the east, the Idaho Canal on the west, and John Adams Parkway on the south. At its October 4, 2005 Meeting, the Planning Commission found this request in accordance with the Comprehensive Plan policies and existing land use and recommended approval of this amendment. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this Comprehensive Plan Amendment request:

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| Slide 1 | Vicinity Map showing surrounding zoning |
| Slide 2 | Comprehensive Plan |
| Slide 3 | Aerial Photo showing surrounding zoning |
| Slide 4 | Land Use Map |
| Slide 5 | Site Photo looking north on Delbert Drive |
| Slide 6 | Site Photo looking at private cul-de-sac (PUD) |
| Slide 7 | Site Photo looking south from the north end of Delbert Drive and Idaho Canal |
| Slide 8 | Site Photo of condominiums on Block 12, Linden Park Addition, Division No. 7 |
| Exhibit 1 | Planning Commission Minutes dated October 4, 2005 |
| Exhibit 2 | Staff Report dated October 4, 2005 |
| Exhibit 3 | Map of proposed amendment of Comprehensive Plan |

The Planning and Building Director stated that when the Comprehensive Plan was drawn for this area, it was drawn to reflect the multi-family zones in the year 2000. Therefore, the designation is higher density residential. The land uses in the area are primarily single-family residential.

Bart Weaver, 441 Parkway Circle, appeared to state that he was in favor of the rezoning as they wanted to keep the character of the neighborhood. He stated that he has talked with ten of the surrounding neighbors, who assumed that they were zoned R-1 at the present time. Mr. Weaver stated that he purchased his property in May of this year. It was listed as R-1 by the realtor. There was another neighbor that was listed as R-1 by this same realtor. The realtor then sold the neighbor's house as an R-3 boarding house. The Shepherd's Inn. This has the neighborhood upset.

There being no further discussion either in favor of or in opposition to this Comprehensive Plan Amendment request, Mayor ProTem Hardcastle closed the public hearing.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the amendment to the Comprehensive Plan from higher density residential to low density residential located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal, legally described as Linden Park Addition, Division No. 7; Linden Park Addition, Division No. 2, Block 10, Lots 11-19; Block 8, Lot 25; Block 11, Lot 2; Block 12, Lots 1-5 and 7; also, 1.1 Acres of the Northeast Corner of the Northeast Quarter of the Northeast Quarter, West Canal, Section 20, Township 2 North, Range 38 East of the Boise Meridian. Roll call as follows:

Aye:	Councilmember Lehto Councilmember Groberg Councilmember Hardcastle Councilmember Shurtleff Councilmember Hally Councilmember Lyon
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Nay:	None
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Motion Carried.

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Mayor ProTem Hardcastle requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from R-3 (Apartments) and R-3A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on property located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal and legally described as Linden Park Addition, Division No. 7, Block 11, Lots 6-17; also, R-3 (Apartments) with a PUD (Planned Unit Development) Overlay to R-1 with a PUD Overlay on property legally described as Linden Park Addition, Division No. 7, Block 12, Lot 8 minus Parkway Condo's Phase No. 1 (a portion of Lot 8, Block 12). At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM R-3 TO R-1 AND R-1 WITH A PUD OVERLAY, PORTIONS OF LINDEN PARK ADDITION SOUTH OF FIRST STREET, NORTH OF NINTH STREET, AND WEST OF ST. CLAIR ROAD

Attached is the request to rezone from R-3 to R-1 Lots 6 through 17, Block 11, Linden Park Addition, Division No. 7. The request also includes rezoning Lot 8, Block 12, Linden Park Addition, Division No. 7, other than the existing Parkway Condos Phase 1, from R-3 with a PUD Overlay to R-1 with a PUD Overlay. At its October 4, 2005 Meeting, the Planning Commission recommended approval of this request. This rezoning application is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this rezoning request:

Slide 1 Vicinity Map showing surrounding zoning and rezoning request for 7 acres
Slide 2 Aerial Photo
Slide 3 Aerial Photo – Close Up
Slide 4 Site Photo of condominiums on Block 12, Linden Park Addition, Division No. 7
Exhibit 1 Planning Commission Minutes dated October 4, 2005
Exhibit 2 Staff Report dated October 4, 2005
Exhibit 3 Map of proposed amendment of Comprehensive Plan

The Planning and Building Director explained that it is proposed to retain the Planned Unit Development (PUD) Overlay that exists east of Delbert and north of John Adams Parkway because the cul-de-sac east of Delbert Drive and leading into Delbert Drive is a private road. It was developed into a Planned Unit Development and is not a platted area.

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Bart Weaver, 441 Parkway Circle, restated his comments from the previous public hearing.

There being no further discussion either in favor of or in opposition to this rezoning request, Mayor ProTem Hardcastle closed the public hearing.

Councilmember Lehto requested to know from the Planning and Building Director whether the rezoning on this property would affect The Shepherd's Inn.

The Planning and Building Director stated that the owner closed on this property at the end of October, 2005 and they were to move into the building the first week of November, 2005. The Shepherd's Inn would become a non-conforming use and would be grandfathered in.

Mr. Weaver re-appeared to state that The Shepherd's Inn has closed on this property as of October 31, 2005. It was his understanding that they have not occupied the building due to some remodeling that is being done.

Councilmember Groberg stated that this may become a legal issue that the City Council is unable to address. It was his understanding that at the time the property was purchased by The Shepherd's Inn, it was at that time grandfathered in.

The City Attorney stated that it was not just the purchase of the property. The people would have to establish the use. Use is established by occupancy, by application for a building permit, or expenditure of an amount of money in reliance upon the existing zoning. Those are the facts that Mr. Weaver was alluding to. The City Council cannot decide that issue at this time. The City Attorney stated that he did not believe that it was relevant to what the City Council is trying to accomplish with this public hearing.

Councilmember Shurtleff requested to know whether The Shepherd's Inn could be sued if the zone change is made and they continue with development of The Shepherd's Inn.

The City Attorney stated that a private citizen would not have the right to bring a legal action. The City of Idaho Falls would enforce a violation if there were a violation. With regard to what he has heard at this public hearing, he thought that it might be sufficient to establish a non-conforming use and The Shepherd's Inn would likely be able to maintain that use once the zone was established.

Councilmember Groberg stated that it was his understanding that The Shepherd's Inn had already taken the steps to secure a right to that use. If this did turn out to be a legal action, the City Council would not be able to determine it, but it would be determined on the facts as they are developed. Councilmember Groberg stated that he understood that when this was brought forward, that the property had already been purchased and action had been taken in reliance on the existing zoning, that this use would be grandfathered.

Doug Hillman, 425 Parkway Circle, appeared to request that if The Shepherd's Inn sells this home to some other company or individual, whether the home would revert back to a single-family residence.

The City Attorney stated that if the use were expanded or if there was potential renovation of the building, then that would not be a permitted use. The transfer of ownership, as long as the same use is maintained, would not result in a loss of that non-conforming use status.

Councilmember Groberg explained, further, that if the new owner wanted to go into some other use that was permitted in the R-3 Zone, but was a different use than the current owner had, that would not be allowed.

Councilmember Lehto requested to know whether there was any consideration into tabling this matter until clarification can be determined on The Shepherd's Inn non-conforming use. Any debate or expression of legal action would happen based on time, and if this was delayed for two weeks, then it could be determined where The Shepherd's Inn is in the process.

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The Planning and Building Director stated that this matter could be tabled for two weeks. She stated, further, that her last conversation with The Shepherd's Inn was approximately 3-4 weeks ago. At that time, she suggested to them that they needed to be moved in by November 10, 2005.

Councilmember Lehto requested to know whether The Shepherd's Inn would have to take out a permit to establish their operation.

The Planning and Building Director stated that it would depend on what remodeling they were doing.

Councilmember Lehto requested to know whether the owners of The Shepherd's Inn were aware of the zoning public hearing being conducted at this time.

The Planning and Building Director stated that she believed that the owners were aware of this zoning hearing. She stated further that the realtor was aware of the zoning hearing being conducted.

Councilmember Groberg stated that it is not the intention of the City Council with this zone change to foreclose the use of that property which was purchased by The Shepherd's Inn under the R-3 Zone. He stated, further, that he did not want the property to remain R-3 because if there was a switch to some other use permitted under the R-3 Zone.

Councilmember Hally requested to know whether the purpose of the delay would be to receive new information.

Councilmember Lehto stated that the Planning and Building Director has indicated that the realtor was aware of this public hearing for a zone change, but the purchaser may not be aware of this rezoning request.

Mr. Weaver re-appeared to state that the house parents living in The Shepherd's Inn were aware of the rezoning public hearing.

Councilmember Shurtleff requested to know if the City Council approved the rezoning on this property and the purchasers of The Shepherd's Inn applied for a building permit tomorrow, would there be a scenario that the building permit would not be granted because it was a use under the R-3 Zone and not under the R-1 Zone.

The Planning and Building Director stated that the Zoning Ordinance states that the new owners have vested rights when they have spent \$500.00. She believed that the moment they purchased the home, they spent money that would allow them to have the use of the R-3 Zone.

Councilmember Shurtleff stated that he agreed with Councilmember Lehto in delaying Council action on this rezoning until The Shepherd's Inn has established their rights under the R-3 Zone.

Councilmember Lyon stated that he agreed with Councilmember Lehto and Councilmember Shurtleff in tabling this rezoning request to the next Regular Council Meeting to be held on November 22, 2005.

Following a brief discussion as to whether to hear further testimony at the next Regular Council Meeting, it was determined that the public hearing should remain open.

Mr. Weaver re-appeared to state that if The Shepherd's Inn wanted to preserve their rights, they would have been in attendance at this public hearing.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to table consideration of the rezoning from R-3 (Apartments) and R-3A (Apartments and Professional Offices) to R-1 (Single-Family Residential) on property located generally south of First Street, north of Ninth Street, west of St. Clair Avenue, and east of the canal and legally described as Linden Park Addition, Division No. 7, Block 11, Lots 6-17; also, R-3 (Apartments) with a PUD (Planned Unit Development) Overlay to R-1 with a PUD Overlay on property legally described as Linden Park Addition, Division No. 7, Block

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12, Lot 8 minus Parkway Condo's Phase No. 1 (a portion of Lot 8, Block 12) to the November 22, 2005 Regular Council Meeting. Roll call as follows:

Aye: Councilmember Shurtleff
Councilmember Lyon
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

Mayor ProTem Hardcastle requested Councilmember Groberg to conduct a public hearing for consideration of a CUP (Conditional Use Permit) for a pre-school in an R-1 (Single-Family Residential) Zone located generally at 344 North Water Avenue and legally described as Lot 4, Block 34, Original Townsite. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: CONDITIONAL USE PERMIT FOR THE CAT AND FIDDLE PRESCHOOL

Attached is the application for a Conditional Use Permit for a preschool at 344 North Water Avenue. The parcel is zoned R-1 and is located north of Ash Street and east of North Yellowstone. The Planning Commission considered this application at its October 4, 2005 Meeting and recommended denial of the request for a preschool at this location. Their findings are attached as well as the minutes of the Commission Meeting. This application is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

Councilmember Hardcastle stated that she had a potential conflict of interest and stated that she would not be participating in the discussion, deliberation or decision of this Conditional Use Permit Request.

The City Attorney explained that in visiting with Councilmember Hardcastle, he did not believe that she had a conflict of interest. He stated that Councilmember Hardcastle had some previous contact with the owners and visited the premises unaware of the potential action on this property.

Councilmember Hally disclosed that he had a brief discussion with someone who has children at this facility. The City Attorney questioned what the discussion entailed. Councilmember Hally stated that the discussion was that the parents wanted to see the operation of the pre-school continue and requested to know whether he knew

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anything about this issue. He told them that he did not know about the issue. That was the end of the discussion.

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this Conditional Use Permit request:

- Slide 1 Vicinity Map showing surrounding zoning
- Slide 2 Aerial Photo
- Slide 3 Aerial Photo – close up
- Slide 4 Site Plan submitted by the applicant
- Slide 5 Existing land uses
- Slide 6 Site Photo of front elevation of subject property
- Slide 7 Site Photo of back yard of the subject property
- Slide 8 Site Photo of alley east of property
- Slide 9 Site Photo of area of future parking
- Slide 10 Site Photo of street and properties to the south of subject property
- Slide 11 Site Photo of homes to the west of subject property
- Slide 12 Site Photo of residence to the north
- Slide 13 Site Photo of home to the south
- Slide 14 Site Photo of residence to the southwest
- Exhibit 1 Planning Commission Minutes dated October 4, 2005
- Exhibit 2 Findings of Fact, Conclusion of Law and Decision dated November 1, 2005
- Exhibit 3 Staff Report dated October 4, 2005, including letters from Jana Maio, Cheri Cook, Justin and Nicole Hall, the Clapps (Rebecca, Jason, and Debra), April Dinneen, Vicki J. Leatham, Dana and Teneal Wright, Todd and Susan Tueller, Keisha and Dr. Oliver Thuernagle, Patrick and Laura Lebow, Tawni and Jayce Howell, Douglas and Kristen Burns, James and Stacey Barrett, Candice and Evan Pruitt, Bud and Ann Albin, Stacey Christensen, and Kerry and Annette Howell (Letters presented to the Planning Commission).
- Exhibit 4 Site Plan
- Exhibit 5 Map of zoning
- Exhibit 6 Map of land uses

The Planning and Building Director stated that the applicant has submitted the following information in a binder for Council review:

- Page 1 Photo of Cat and the Fiddle Preschool – 344 North Water Avenue
- Page 2 At Cat and the Fiddle Preschool, it is our hope that we provide a school climate conducive to a positive educational experience for all children. We recognize that Pre-kindergarten is the “corner stone” of a child’s success through his or her schooling experience.
The basics – Alphabet identification and sounds, Math, Science, Reading, Appreciating fine art, Learning to be responsible for one’s self and relate positively to others – are just part of what we consider important in the process of educating children.

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When I taught extended-day kindergarten for Emerson Elementary, I would visit with other kindergarten teachers around the district. It was a common complaint amongst teachers that children who had attended Preschool were not coming to us with the skills they needed, thus putting them at a disadvantage before they began their elementary education. It was especially noticed among the lower income families. Therefore, when I decided to teach Preschool, I made a decision to allow a "free education" to those who normally couldn't afford to attend. We have several students who pay nothing, or are at a discounted rate.

I am in contact with Dora Artilejo, a migrant tutor at Templeview, she provides me with families who are interested in Preschool, but can't afford to go.

Vince and I moved into the historic district right after we married (approximately 25 years ago) I absolutely fell in love with the older neighborhood, and looked forward to restoring a home that had fallen into disrepair. We have a vested interest in that neighborhood and want to make certain it is maintained. Although we outgrew the home, we were worried that another buyer might not appreciate the uniqueness of the neighborhood. Over the years, several of the houses on Water Avenue have had a great deal of "turnover". The people who have purchased them don't appear to be interested in maintaining them, or in the richness and history they provide our great city. We are thrilled to have people like The MacConnell's, The Gombert's, the Martin's, the Clement's, and Tonya Kinghorn living in that area. They have invested time and money into keeping that area a historic treasure. Vince and I have chosen to remain in the area by operating a pre-kindergarten session. It allows us the opportunity to preserve our historic home, while still being able to make the house payment for it. We will not change the curb appearance or alternate the integrity of the home...we are planning just the opposite. There will be no sign posted advertising a preschool, we plan on repairing street curbs, and are looking into having the alley paved to increase value to the area.

The sessions will run when most neighbors are at work. (Monday - Thursday 9:00-4:00) We do not have a Friday session because our next door neighbors are home on that day. We have asked our parents to park at the United Methodist Trinity Church, and avoid our street and alley. We also requested they carpool whenever possible, to cut down on traffic impact. If we are outside in the backyard (rarely), the kids are told they must be quiet. We are looking forward to operating under the City guidelines, while still maintaining the charm and integrity the Historic District is known for. Thank you for your consideration,

s/ Jana Maio

Owner Cat and the Fiddle Preschool

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Mr. Banks,

In June 2004, we met with City Planning Member Todd Meyers about beginning a preschool.

Although we were handed no official documents, Mom and I took notes on the fact that we needed to have an Architect go through the house and draw up some plans.

Mr. Meyer informed us that he would not be able to schedule us for a City Council Meeting until November of that year (2004). He also suggested that we visit with Reggie Fuller, a City Building Official. We attempted to talk with Mr. Fuller, but he was not in.

When I returned home, I immediately began to contact several of the architects in town, and was told by all of them that they did not have the time to work with us, and to check back in several months.

After a few weeks, my husband called several of the architects back, and was informed that they still didn't have the time to pursue our needs. He then located a retired architect, who met with him, and gave him a "heads-up" on the things we would likely need to change, in order for the house to conform to City Code for a preschool.

In late January of 2005, we began teaching preschool with 5 kids, 2 hours a day.

In March of that year, the City received a complaint from our neighbor. The City would not disclose what the complaint had been, though we figured they were angry because people were parking on the street in front of their house to drop off their children. We sent home a notice to parents asking them not to park in front of the yellow house, and to organize carpools.

Vince specifically asked the City what the complaint was, and who it had come from. They wouldn't tell us.

We again called all the architects to see if they had time for us, and the response was the same ... NO.

Vince went in to talk to the City people and let them know where we were, as far as an architect, and was informed that we needed to be living in the dwelling in order to have a "Home Business". Vince moved back into the house and had his mail sent to that address. He also asked the City if we needed to close the preschool. They said "No, the letter merely stated that we were in violation of City Code because we didn't have a conditional use permit". (living in the house had rectified the need for a permit)

About three weeks later, March 24th, we received a notice from the City stating they had received another complaint. (Wouldn't tell us what the complaint was, or from whom it came. We assumed it was the same neighbor) This letter stated we needed to stop the preschool immediately.

Vince visited the City personnel, and informed them that he was living in the house, as they had told him was necessary. They wanted to know if we had placed our Fairway Estates home on the market. Vince asked if it was required that we do so, they said NO.

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My daughter and I continued to occupy our 420 Gullane Circle residence.

I remembered one of our parents, Scott Dille, worked as a Draftsman for Neilson and Bodily. I contacted him immediately and asked if he could get one of their architects to “give us the time of day”. Scott informed me that his father (Lee Dille) was an Architect from Pocatello, and he would see if he could work us in. We met with Lee Dille in early April 2005, and he began working on our plans to present to City Council. At the same time, requests for attendance to our preschool soared.

Although we didn’t advertise, business increased to the point where we would need to provide three sessions a day to accommodate everyone for the upcoming September.

We were not concerned, thinking that with an architect on the job, we would have our conditional use permit before school started (5 months away).

We finished the school year with 5 students, and began to do demolition on the preschool during the summer months.

We began running 3 sessions a day in September, 2005. (Monday-Thursday 9:00-11:00, 11:15-1:15, 1:30-4:00)

We are slated for a “public hearing” on October 4th and again some time in November.

As of today, we have still not seen a finished approved architect’s plan. (It’s been 5 months) ... and our draftsman made the comment that he has NEVER seen the City be such “sticklers” with anyone else like this before. (Vince has had words with several of the City people over the delays, and miscommunication we have faced trying to get this off the ground, and I’m wondering if they are being extra hard on us because of this.)

We are nervous about operating illegally since September 6th, but to wait for approval would have meant putting off enrolling for another year, and we would have lost all our clientele.

We see no reason for this process from April-September to have taken so long.

It has been a year and three months since we began this process!

We are hoping you will represent us at the upcoming Planning Board Meeting, City Council Meeting, and with any other actions, should legal need arise.

If there are any other questions I can answer for you, please do not hesitate to call.

Thanks so much, Jana Maio
Owner Cat and the Fiddle Preschool
September 17, 2005

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Cat and the Fiddle Preschool Timeline:

June, 2004 – Met with Todd Meyers to discuss starting a preschool.

June, 2004 – Began contacting Architectural firms. None able to help.

June, 2004 – Located a “retired” architect who was willing to go through the house and give us some idea of what would be expected.

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July, 2004 – Contacted architectural firms again. Same response – too busy.

September, 2004 – Taught preschool (5 students) in Gullane Home.

January, 2005 – Moved preschool (5 students) to Water Home.

March, 2005 – Received first letter from City concerning complaint from neighbor.

March, 2005 – Informed clients not to park in front of yellow house (neighbor).

March, 2005 – Contacted architectural firms again. Same response – too busy.

Late March, 2005 – Notified of second complaint from neighbor. Told by City house had to be occupied. Vince moved back in.

Late March, 2005 – Parent Scott Dille contacted his father (architect in Pocatello) and asked him to work with us.

Early April, 2005 – Met with Lee Dille. He began to draw up plans to submit to City.

April – August, 2005 – In constant contact with Lee Dille about progress being made. Work between Lee Dille and the City seems extremely slow.

April – August, 2005 – Received many requests to attend our preschool. Scheduled three 2 hour sessions a day to accommodate demand.

September, 2005 – Began running full sessions. Still waiting for approved plans from City. Unable to see planning board or City Council until October or November. Waiting will result in lost clientele, and delay of starting till September, 2006. Can't financially afford two house payments any longer. Will proceed, in hopes this will be wrapped up within a month.

September, 2005 – Contacted legal firm regarding representation for preschool.

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Derek –

Here's a list of students by session.

All of them come on different days (some 2 days a week, some 3 days a week, some 4 days a week).

I have also noted who carools together, to alleviate traffic build up.

I cannot begin to tell you how grateful I am to you for the time and energy you are expending on my behalf.

Thanks so much, Jana Maio

Here is a list of students who attend for free or discounted rate... I listed them by session, so as not to publicly embarrass them by using their name.

Morning Session

Boy – 4 days a week (\$20.00) no registration fee

Boy – 4 days a week (free) no registration fee

Boy – 4 days a week (free) no registration fee

Boy – 4 days a week (free) no registration fee

Middle Session

Girl – 4 days a week (free) no registration fee

Boy – 4 days a week (free) but paid the \$50.00 supply fee

Girl – 4 days a week (free) but paid the \$50.00 supply fee

Boy – 3 days a week, but pays for only 2 days (no registration fee charged)

Afternoon Session

Girl – 4 days a week (free) no registration

Boy – just got information from the Migrant tutor at Templeview Elementary, I don't know how many days they are interested in. He will attend for free.

Our regular fee is ...

4 days \$100.00 a month; 3 days \$75.00 a month; 2 days \$50.00 a month with a one time supply/registration fee of \$50.00.

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Planning Commission Board Facts and Findings:

Conclusions of Law:

1. Although preschools are not listed as a permitted use under the R-1 Zone, day care centers are permitted when approved as a conditional use permit. Both preschools and day care centers provide care and supervision for compensation. The land use impacts are very similar. Both uses are classified as E occupancies under the 2003 International Building Code.

1. The operation of The Cat and The Fiddle Preschool does materially contravene the objectives of the R-1 Zone and disrupt the character and harmony of this neighborhood:

A. Three sessions are provided at the preschool Monday through Thursday. Pick-up traffic will use a narrow gravel alley with limited visibility and occupied by dumpsters. Drop-off traffic, if it uses the local street in front of the preschool, is limited to two parking spaces. Using other portions of the street will interfere with use of the residents who rely on Water Avenue for personal parking.

In Response –

We no longer use the alley for pick-up of the students. We had initially suggested this as a way to eliminate traffic in front of the preschool.

Parents are currently using the United Trinity Methodist Parking Lot for drop-off of students. Pastor Sene has approved this arrangement, and a donation is made monthly to the church by the preschool. (It should be noted that Pastor Sene offered use of the parking lot at no cost, stating it would serve as an opportunity to provide "Neighborly Good Will".)

***Parents no longer drop-off or pick-up at the preschool.**

B. Approximately twelve students attend each session presently. Building codes will allow forty occupants on the first floor. If a five-year lease is secured for staff parking at the Trinity Methodist Church, the number attending each session can significantly increase.

In Response –

We have no intention of operating anywhere near the forty occupants allowed by the building code. We are not interested in day care/babysitting. The purpose of this facility is to provide Pre-Kindergarten classes for students in Idaho Falls, as well as providing a "FREE" education for lower income families.

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***Parking has been secured for staff and drop-off/pick-up parking, however we have NO interest in allowing the number of students allowed per session (40), to attend.**

C. There has been no testimony that this preschool serves the immediate area and is an amenity to the neighborhood, other than preservation and maintenance of the former home will preserve the historic character of the neighborhood.

In Response –

Our Pre-Kindergarten classes serve families from all over Idaho Falls. Public discussion was closed, and the panel made the assumption that we did not service students in our area.

Currently we have four families who walk to preschool. Three of them reside on 10th Street just across Boulevard, and one resides on 4th Street. Adding to these students next year will be two more students, both residing in separate residences on North Water. They are currently two years of age, and not old enough to attend.

***We DO serve the immediate area, and would like to make special note of the fact that the Planning Commission states here that we are ... PRESERVING AND MAINTAINING THE FORMER HOME, AND THUS PRESERVING THE HISTORIC CHARACTER OF THE NEIGHBORHOOD.**

This statement from their “facts and findings” completely contradicts earlier concerns raised by the commission and neighbors, that the Preschool does not preserve and maintain the neighborhood.

D. The area is an area of reinvestment by the owners of single-family homes, the permitted use within the zone. The area is presently served by several amenities, including day care facilities and churches, which house day cares and preschools.

In Response –

There are people in the Historic District who have taken great pride in maintaining the character of their homes. When Vince and I purchased our home over 20 years ago, it had not been well maintained. We, along with others in that area, have put tremendous amounts of time, money, and energy into our home. We have a vested interest in the area, and want to see its charm and integrity maintained.

No one can dispute the fact, however, that some areas are more maintained than others. Many of the structures have, in the past, been left empty and have fallen into disrepair. It has been through the support of businesses that many of these homes and buildings ARE being restored. Financially many of these structures can't be maintained by single families.

We understand the delicate balance of supporting the “Charm and Integrity” of the neighborhood, while maintaining its historic value. It is for this very reason that we are set against doing anything to the home that would give it the impression of a business.

There will be no signage posted, and we will maintain it as we always have in the past ... A single-family dwelling, "OUR HOME".

In rebuttal to the statement that the area is presently being served by many day cares and preschools, you cannot compare what we offer to any of those facilities. Most are "day care/babysitting" services, which split off into classes to minimize the number of kids one staff member has to monitor. In most cases, there are no educational guidelines followed by the teacher. It is basically providing socialization skills for the students. I have attended and observed many of this area's facilities.

We, on the other hand, provide a Pre-Kindergarten education in a unique, historic home surrounded by amenities provided at that residence.

Children are instructed following guidelines set by the State of Idaho, as well as IRI and ISAT Testing, which is implemented through the "No Child Left Behind Act".

Necessary Benchmarks are achieved through entertaining "hands-on" activities, and many of our students will enroll in area Kindergartens with the ability to read.

Most importantly, we provide many lower-income children from our community a FREE education. These children would normally be enrolling in our area schools with "below grade level" performances. We receive our lower-income referrals from Dora Artelejo, the migrant-tutor employed by Templeview Elementary. We will also be receiving referrals from Jeanne Johnson, principal at Bush Elementary. (Both of these schools service the Historic District).

2. The proposed passenger loading and unloading areas do not meet the requirements of Sections 4-23.H. and 4-23.W. since they are being proposed in the alley and in an area of less than sixty (60) feet in width on the local street.

In Response –

This concern has been alleviated. We no longer drop-off in front of the house or pick-up in the alley.

3. Three staff parking spaces are being proposed on-site. If a student or visitor needs to use the one space which is handicapped accessible, there will be no on-site parking for the third staff member.

In Response –

This concern has been alleviated. Staff can park at the United Methodist Trinity Church. We see no reason however, why a visitor would be precluded from parking in front of our home.

Planning Commission Meeting

Statements in Opposition of the Preschool and the Rebuttals for those arguments:

Dirk Gombert – 353 North Ridge. Mr. Gombert lives close to the preschool, and he stated there are many zones in the area. There are some older homes and some could use work. Other homes in the area are immaculate. He has lived in his home since 1987 and noted the reason this area is currently is R-1 is

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due to a resident-lead initiative in 1991 to 1992 to restore the neighborhood. Some facilities were grandfathered in, but the neighborhood is R-1 and wants to remain R-1. Mr. Gombert pointed out some homes in the neighborhood and some historic features in the homes. The neighborhood takes pride in its appearance. He stated there is not a neighborhood in the City with as many trees as this neighborhood contains. The opposition to the preschool is not based on how the preschool is operated; it is based on not wanting another business in the neighborhood. Mr. Gombert pointed out two other day cares or preschools in the area as well as three churches running day care programs.

Mr. Gombert stated the neighborhood utilizes dumpsters in the alley rather than curb pickup. The alley is tight, especially in the winter, and is not a good location to drop off children. Mr. Gombert noted this is not a traditional neighborhood and there are many neighbors who are home Monday through Thursday. The preschool will have a direct impact on the neighborhood. Most of the people favoring the preschool do not live in the neighborhood. There was overwhelming local community support for rezoning to R-1 thirteen to fourteen years ago. The support is still there, and the neighborhood wants to remain R-1. If the historic area of Idaho Falls is going to be a drawing card, houses cannot be lost to businesses. Allowing a conditional use permit for this property sets a bad precedent. He understands the interest people have in bringing children to Jana Maio and Joan Ralphs. If the business were elsewhere, her clients would follow. Mr. Gombert's opposition is about the nature of the neighborhood. The preschool can be run elsewhere. Mr. Gombert's slide entitled, "Preserve the Historic District" was entered into the record.

In Response to Dirk Gombert – 353 North Ridge

We appreciate Mr. Gombert's personal efforts in initiating an R-1 zone for our area, however, preschools are allowed in this zone with a Conditional Use Permit.

We are submitting signatures from homeowners in the R-1 zone. The majority of that area is in favor of classes being taught there, and sees no negative impact to the neighborhood. There will be additional signatures provided to Council that evening.

Simply stating that you "Don't want additional business in the area", is not a valid argument.

We take umbrage to the fact that Mrs. Cosgrove was allowed to participate in the Planning Commission's decision, and feel she has a conflict of interest. She resides in that R-1 area, and spent a great deal of time arguing about the mixed use of the area and wants it changed. While she is free to pursue that endeavor, we would like her to make her decisions based on the present laws, not on what she would like them to be.

The appearance and maintenance of the home will not change in any way. We also have a vested interest in this neighborhood, and view this residence as OUR HOME.

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Issuing a "Conditional Use Permit" does not set any sort of "precedence". Every change in an R-1 zone goes through the exact same process we were required to.

Many homes in this area were "saved" by businesses willing to step in and financially restore homes that had become an eyesore. Vacant homes that are will maintained are not "Drawings Cards" for the area.

Many of our clientele were drawn to the preschool because of its location. We service many children from the immediate area. It may also be noted that our location provides business to the Downtown area. Many of our parents frequent the Downtown restaurants, stores, library, museum, YMCA, and other facilities they would not normally use, because they are in the area.

The Mayor, City Council, and Downtown Coalition have all given much thought and effort to increasing support for our Downtown businesses. We, at Cat and the Fiddle, are providing incentive for that very concern.

We no longer use the alleyway for pick-up. Traffic concerns have been addressed and eliminated.

We see no need and have no desire to locate anywhere else. This is Our Home, and we look forward to serving this area while still maintaining our Historic Treasure.

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Vicinity Map from Findings of Fact and Conclusions of Law showing area of gathered signatures.

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Petition:

I am aware of pre-kindergarten classes being taught at 344 North Water (Monday-Thursday between the hours of 9:00-4:00) and find no negative impact to the historical preservation of the neighborhood. I am aware that steps have been, and are being taken to provide for the safety of the children attending, as well as eliminating any noise and traffic impact.

Name	Address	Phone Number
Dylan Morris	Bennetts	243-2374
Dan Curtis	Bennetts	243-2328
Jack Goddard	2861 Laguna	521-1703
Chris Payne	390 North Eastern Avenue	522-0847
Jen Wilson	495 22 nd Street	529-0520
Paul Ryan	390 North Eastern Avenue	523-7291
Brad Mason	310 North Eastern Avenue	529-2800
Jean Mason	310 North Eastern Avenue	529-2800
Todd Allen	Bennetts	619-5025
Hugh Rhoades	Bennetts	243-2357
Kim Olsen	220 North Eastern Avenue	552-9500
Gail Fielding	273 North Ridge	522-2751
Susanne Nielsen	273 North Ridge	522-2751
Deanne Dial	IFGH	523-0053
Sara W., Hale	IFGH	523-0053
Pam Larsen	312 North Ridge	522-2016
Leon Larsen	312 North Ridge	522-2016
Amy Rupp	275 Ash	221-0166

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Devin Beaty	IFGH	705-0546
Carol Hopkins	370 North Ridge	522-7978
LaMont Wold	370 North Ridge	522-7978
R. Todd Johnson	409 North Ridge	522-2116
R. Todd Johnson	360 Cedar	522-2116
R. Todd Johnson	391 North Placer Avenue	522-2116
Eleanor Mehas	340 North Placer Avenue	523-7078
JoAnn Stoddard	245 Cedar Street	524-1637
Debbie Anderson	343 North Water	339-1669
Justin Keaton	313 North Water	--
Samuel Barrett	313 North Water	313-7200
Annie Wartenbe	313 North Water, No. 4	--
Janene Hoggan	313 North Water, No. 6	521-9304
D. J. Rhoades	340 North Eastern Avenue	522-5630
Daniel Bentzen	340 North Eastern Avenue	522-5630
Matthew Evans	412 Ash Street	243-1429
James Howard	363 North Placer	529-3139
Jeff Martinez	361 North Water	589-5185
Tonia Burgess-Kinghorn	387 North Water	200-4473
Brandon Anderson	343 North Water	339-1669
Deztiny Osborne	313 North Water, No. 2	200-2339
R. Todd Johnson	391 North Placer Avenue	521-7498

Dated: November 3, 2005

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Planning Commission Meeting:

Mike MacConnel – 360 North Water. Mr. MacConnel is concerned about the value of his home and about traffic flow. Most neighbors park on the street, and the preschool could impact the homeowners' parking privileges. Dixon noted one of the letters stated a child had been attending the preschool since September, 2004. Dixon asked how long the preschool had been operating. Mr. MacConnel did not know, but it has been operating for at least several months.

In Response to Mike MacConnel – 360 North Water
We have spoken with area Realtors, and the consensus among them is that a preschool will not affect the value of his home. We have many improvements planned for the home. Some of them were implemented when we lived there. We paid to have a fence constructed between our preschool and the MacConnel's as a gesture of goodwill. The MacConnel's are at work while we are in session. Susie is home on Thursday's, however, we are not outside and are very quiet walking from the parking lot. Mr. MacConnel's concerns of traffic flow have been eliminated, although our parents were asked to NEVER park in front of their home prior to the Planning Commission Meeting. The preschool has only been operating with 3 sessions since September of 2005. In January of 2005, we were operating at that location with one session a day, and 5 students. Vince resided there, and we were operating as a legitimate home business.

Bruce Pence – 328 North Water. Mr. Pence lives directly south of the proposed property. From what was stated, he thought the maximum number of students that would be allowed would be twelve according to parking restrictions, but parking nearby was mentioned as a possibility allowing more students. Mr. Pence

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noted his wife is disabled and uses a wheelchair. There are limited places for her to load and unload. The preschool has had an impact, and the noise has been bothersome, including dogs barking. The Maios are good people and are providing a good service. However, a preschool will be better provided in another location where forth children could be brought in three times a day. Mr. Pence noted he does not have any abandoned vehicles. The alley is not safe enough for small children to utilize.

In Response to Bruce Pence – 328 North Water

For approximately 15 years, Mr. Pence has parked his many vehicles from the corner of Ash, in front of our home, and all the way to our driveway. We have never complained or made comments to them concerning this. Every winter the City would require Mr. Pence to move his vehicles to allow for the snowplows. There were some winters when they were towed. He currently has his vehicles parked on his property in the alleyway, as well as in a parking lot adjacent to the museum parking. These vehicles are not used on a regular basis and have sat there for the past few years. The Pence's took offense to the fact that our Parent Spokesman referred to them as abandoned, however, many of them aren't even equipped with tires. They have commented to us that having people pull up to drop off students in front of OUR home, irritates them and interferes with their parking. We have eliminated any parking in front of OUR home by parents, to ensure that Mr. Pence has plenty of room for his various vehicles. Because his wife has suffered several strokes, and has difficulty loading into a car, we have, since 2004, offered them the use of our personal driveway to load and unload. The corner of Ash Street (which appears to be closer to his home) is also equipped with a dipped indent to provide handicapped access to the sidewalk.

Page 11	Photo of preschool puppet theater Photo of preschool entryway
Page 12	Photo of preschool classroom Photo of preschool classroom
Page 13	Photo of preschool library Photo of preschool classroom
Page 14	Photo of preschool library Photo of preschool kitchen
Page 15	Photo of Mike MacConnel home on Water Photo of truck usually parked in front of Pence home
Page 16	Photo of Bruce Pence home on Water Photo of alley behind Pence home
Page 17	Photo of home at corner of Cedar and Water Photo of business located between Water and Ridge
Page 18	Photo of Gombert home from the alley Photo of Martin home from the alley
Page 19	Photo of home located at Cedar and Water Photo of building in alley behind home above

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The Planning and Building Director explained that the present zoning for this property is R-1. The zoning to the west of the R-1 zone is GC-1. The zoning south of Ash Street is R-3A. The zoning north of Poplar and immediately adjacent to South Boulevard is R-3A. This R-1 area was originally zoned R-3A. Early in the 1990's the neighborhood came to the City Council to rezone this property to R-1. This is an area of mixed uses. The zoning regulations require that there be onsite parking provided for the staff that is required during the largest session. There are three staff members and there are two parking spaces being proposed immediately adjacent to the alley in the rear of the lot. One handicapped parking spot is being proposed in the driveway. This property is listed on the National Historic Register. The backyard is the outdoor space for the preschool and is surrounded by a 6-foot wooden fence. The Planning and Building Director stated that she observed the first session of the preschool when the children arrived. The present loading/unloading zone is at the First Methodist Trinity Church. She stated that there were ten cars that arrived to drop off the children. Seven of the cars used the United Methodist Trinity Church parking lot and 3 cars remained on Water Avenue. Fourteen children were unloaded, and holding a rope, went into the preschool for the first session of the preschool. The City does not have on record any type of written agreement from the First Methodist Trinity Church to the preschool for loading/unloading at the parking lot. There is a requirement that there be a written agreement at least five years in length for loading/unloading at the church parking lot. The Planning and Building Director stated that the Building Department has received building plans on this preschool facility. Under the Building Code, the occupancy level for the first floor only is forty occupants. Also, under the Building Code, preschool children would not be allowed on the second floor. That is due to the age of the home and the type of construction. This particular property has approximately 7,000 square feet in area and is a 50-foot wide lot. That was another issue with the loading/unloading facility. Under the Zoning Ordinance, it should be a 60-foot wide lot.

Jeff Banks, 4765 Gleneagles Drive, appeared as the representative to the Maios for this conditional use permit request. He stated that he wanted to clarify some of the information presented. He stated that the Maios have lived in this home for more than twenty years. They have preserved and maintained it. They have preserved the character of the community and want to continue to do that. In the Findings of Fact, there is a statement that Mrs. Maio has been conducting day care in this home since September, 2004. That is not correct. In January, 2005, Mrs. Maio began to conduct day care at her residence with five children. Mr. Maio lived in this home. Since that time, Mrs. Maio has made an application for a Conditional Use Permit and has been conducting a preschool at this location since September, 2005. Mr. Banks explained that the hours of operation for this preschool is 9:00 a.m. to 4:00 p.m. Because it is a preschool with shorter hours than a day care, it will lessen the impact on the neighborhood. He stated that Mr. and Mrs. Maio provide services within the community. There are four families that walk to the preschool that live in the area. There are three families that live on Tenth Street that go to this preschool. There is another family that lives on Fourth Street that attends this preschool. At night, the preschool is going to be vacant. The Maios have assured him that they will continue to maintain the historic character of the community. Mr. Banks stated that they do not at this time have a five-year written agreement with the United Methodist Trinity Church for use of their parking lot for loading/unloading purposes. There will be an agreement signed in the near future. Mr. Banks submitted the petition as listed in the documentation from the Maio's above.

Mr. Banks then submitted the following letter from Ryan and Heather Clement:

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November 10, 2005

To Whom It May Concern:

We are aware of the operation of a day care/preschool on Water Avenue and have been encouraged to speak out by a number of people. First and foremost, we want to acknowledge the opinions of neighbors in closer proximity to the location of said day care. The MacConnells, Ms. Burgess-Kinghorn, the Pences, and others experience a far greater impact and accordingly deserve a greater consideration of their viewpoints. Secondly, we acknowledge the efforts made by the owners and customers of the day care to be respectful of our neighborhood. We personally have not been negatively affected in any way. Our third, and strongest, conviction is based on the future of our historic neighborhood. Our concern is based on the number of beautiful old homes, which have deteriorated into multi-family dwellings/rentals. While a few of these are well kept, the majority have become a blight. Due to the nature of these renters, our neighborhood is often graced with visits from the Idaho Falls Police Department. If allowing the presence of a well-run business will prevent a house in our neighborhood from becoming a rental property, we do not oppose. If allowing a business to operate in our neighborhood will pave the way for an even greater number of rentals, we cannot condone it.

s/ Ryan Clement

Ryan Clement

s/ Heather Clement

Heather Clement

Mr. Banks requested the City Council to consider that Mrs. Maio was previously a kindergarten teacher. This preschool has offered free and discounted rates to people that do not have the finances to do this with their children. Mrs. Maio has a referral source from a Migrant Assistant at Templeview Elementary School. In the first session, there are four students that are there free or at a discounted rate. In the second session, there are four students that are there free or at a discounted rate. There are three in the third session. There are three sessions for this preschool. That is significant. Rather than a large amount of vehicles coming into the neighborhood at one time, they are split into three sessions. The R-1 Zone permits this use. There is nothing that the Maios intend to do that would contravene the objectives of the neighborhood. The harmony of the neighborhood will not be impacted, especially with the loading/unloading being conducted at the United Methodist Trinity Church.

Councilmember Shurtleff questioned whether the preschool could change their hours of service without obtaining a new Conditional Use Permit.

The City Attorney stated that the Zoning Ordinance does not distinguish between day care centers and preschools. He stated that if the City Council wished to confine the hours of service to the hours that Mr. Banks has suggested, then that would need to be made a condition of the Conditional Use Permit.

Mr. Banks stated that if the City Council wants to place the hours of service as a condition to the Conditional Use Permit, the applicants would have no objection to that being done.

Councilmember Groberg requested to know where the people lived who signed the petition regarding there being no negative impact to the historic district. He requested,

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further, to know how many of them lived in the area that was rezoned to R-1 in the early 1990's.

Mr. Banks provided a map of the area indicating where each person lived who signed the petition. Mr. Banks explained that the Planning Commission took some umbrage with the fact that the preschool had actually started its operation in September of 2005 and not September of 2004 in that location. He shared information from the binder of information from the Maios presented above.

Councilmember Groberg requested to know what the beginning date of the preschool was.

Mr. Banks stated that the beginning date of the preschool was September, 2005. There was a preschool at this location while Mr. Maio lived in the home, with five students. That did not require a Conditional Use Permit. Since that time, the Maios no longer live at the property.

Councilmember Groberg requested to know when the preschool, of any sort, began.

Mr. Banks stated that the preschool began in January of 2005.

Councilmember Lyon requested to know how many students are presently in the preschool.

Mr. Banks stated that there are three sessions of the preschool with 10 to 12 students attending each session. Some students attend two days per week, some students attend three days per week and some students attend four days per week. Attendance varies day to day. The preschool is not open on Fridays. A number of people who live in this area do not work on Fridays.

Jimmy Barrett, 1263 Londonderry Avenue, appeared to state that he was the parent of two four-year olds that attend the preschool. They enjoy the preschool and they enjoy their teachers. He stated that Mr. Banks was thorough and positive. From the Planning and Zoning Commission Public Hearing until now, the Maios have put in a lot of effort to correct any problems or objections. They have corrected their parking. As Mr. Banks has stated, this is a permitted use in the R-1 Zone provided a Conditional Use Permit is approved. Under the Zoning Ordinance, 7-3-2.d, there are only four permitted uses listed. This preschool is one of those uses. It is vital to have children in an area where there are homes. The children are a low impact. He stated that he enjoys laughing children in a neighborhood. This preschool brings that. It is a beautiful home and is well kept. It is a great addition to this neighborhood. The Maios are offering a service to this community in teaching preschoolers. Teachers unite, they do not divide. There is much support for this facility. It is low impact. Mr. Barrett stated that he is an attorney. He stated that there is always dissent. The City Council needs to determine whether the positives are greater than the negatives.

Jimmy Scrogum, 3005 Hudson Street, appeared complemented Councilmember Hardcastle for having taken herself out of this discussion. In the Planning Commission Meeting, there were two or three members of that Board who live in this neighborhood. One Board Member stated that she lived in the neighborhood and did not like what was being said about the neighborhood. He stated that he has a child who attends this preschool, along with two nieces attending also. He stated that there are several people who carpool to the preschool. He said that he did not like the fact that the children have to cross the street from the parking lot to go to school, but that he respected the fact that the owners of the preschool have changed their way of thinking to allow less impact on the neighborhood. The owners have stated that they would redo the alleyway to provide better access to the back side of their home and that they would remove the parking garage and shed in the rear of their property to allow for staff parking.

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Debbie Anderson, 343 North Water, appeared to state that she lives directly across the street from the preschool. Either she or her husband are home during the day with their children. They have never had to worry about parking spaces. There is no noise from the preschool. The children are inside the home. Mrs. Anderson stated that she had no problem with the preschool. The owners are great people. If this is approved, her son will be attending the preschool next year.

Dave Kuhn, 205 Pevero Drive, appeared to state that the Planning Commission focused on the zoning. They did not focus on the fact that it was a Conditional Use Permit. He said that he did not want the City Council to read the Findings of Fact and Conclusions of Law and focus solely on the zoning as this is a request for a Conditional Use Permit. Mr. Kuhn stated that he has traveled in this area. It is a calm area and there are no threats. He stated that he would like to see the City Council tell the owners about what is required to allow the Conditional Use Permit. He stated that there is no reason why this should not happen.

Jolyn Thomas, 166 Martinsburg Lane, appeared to state that her four-year old daughter goes to this preschool. She shared an experience she had with the neighbors across the street from the preschool. Ms. Anderson shared with her that the Maios reached out to her family and invited their two-year old boy to join them. This serves as evidence that not only are Jana and the staff at Cat and the Fiddle dedicated to building and strengthening the children within their classrooms. They are also committed to reaching out into that neighborhood and strengthening all of the children in the surrounding area. When a person walks through the doors of Cat and the Fiddle, there is an overwhelming sense of love and commitment. Jana and the staff believe in the children and the children feel that and are excelling. Even more than the academic progress that the children that they are making, they are developing a life-long love of learning. The youth of today are the leaders of tomorrow. At this preschool, the children are developing a foundation that will allow them to rise up and someday take their place as leaders in the community. She stated that she believed that having a facility that is whole-heartedly committed to building and strengthening the children would breathe new life and new hope into any neighborhood.

Todd Tueller, 1785 Cabellaro Drive, appeared to state that he lives in Ammon. He brought that up because when his wife brings their children to preschool, this has a negative impact on his wallet as she shops downtown.

Deborah Clapp, Ammon, appeared to state that her grandson attends the preschool. His family lives on Sixth Street, which is within the area of the preschool. Mrs. Clapp stated that her son wants his son to grow up respecting this area of town. She stated, further, that the preschool and staff are incredible.

Councilmember Groberg stated that the group should consider as they are giving testimony, not to repeat testimony. The other thing is realize that more than likely the quality of this school is not relevant to the decision on the land use or Conditional Use Permit.

Andy Garrity, 3777 Woodhaven Lane, appeared to state that the home does not appear to be a preschool. It has not been altered in any way and is an extremely well-kept property in the neighborhood. He wished that he had numbers that would indicate what percentage of preschools are operated out of private homes. His children have attended preschools in private homes. As a physician, it was his subjective opinion, that preschool has gone beyond something that gives children a little edge. It is a distinct disadvantage for children who do not have this opportunity. He stated, further, that he has a great deal of respect for the people who live around this preschool who want to maintain the charm and atmosphere of this community. Preschool is an equally important vital portion of children's education. Decisions made about preschools need to be made with equal care and caution that are given in the areas around the elementary schools.

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Derek Lythgoe, 439 West Spring Meadows Drive, appeared to share the following statement:

Good evening.

My name is Derek Lythgoe. I live at 439 West Spring Meadows here in Idaho Falls. With your permission, I would like to read my comments this evening so that you can be assured that I will only take 3 to 4 minutes of your time. I tend to meander if I don't.

This is the second home that I have lived in while I have been in Idaho Falls for what has now been 6 and a half years. What brought me to Idaho Falls was the community and the geography. I have been impressed with the type of people that live here, the friendly attitude and the spirit in which people seem to care for one another. I work at a fairly large institution in town, EIRMC in administration, as the Chief Financial Officer and the Ethics and Compliance Officer. I am also the Vice President for Grow Idaho Falls, Inc., formerly known as the Eastern Idaho Economic Development Council. In serving in both of these capacities, it is my background, interest, and concern to look out for the welfare and economic vitality of our Great City. I know that many times there is a balance to be made between growth and change and how it impacts us individually and what is best for the community.

I was asked to speak on October 4th at the Public Hearing to the Planning Commission and as well as tonight to you the members of the City Council. I am happy to do so, as I feel that there are important issues at stake. In the public hearing about a month ago, I had only a couple of points to make:

First, to try and demonstrate that there are several concerned and interested parents that are committed to trying and preserving the educational and social experience that Miss Jana and her staff have provided to our children. Many were in attendance that night, and we have many here yet again tonight.

Secondly, to try and demonstrate how all of us as parents are willing to make concessions in order to make the impact to the neighbors minimal.

Thirdly, to express an interest to have the neighbors communicate with us any additional concerns and to see if we could work towards a peaceful resolution.

I think I was able to articulate and get most of that accomplished last time. We were here with many supporters and provided evidence that we had made several concessions like modified drop off times, strict sidewalk use and proper care of lawns, comprehensive carpools to minimize traffic, agreeing to limiting hours of service, agreeing to construct parking stalls in the alley, and working with the children on noise control with modified activities and just teaching general respect for the neighbors. We were also able to listen and learn from the neighbors of some of their main concerns which allowed us to discuss some potential resolutions. Many of which you will hear about tonight.

Some of the main concerns listed by opposing neighbors at the Planning and Zoning Meeting were the effect the school would have on the historic value of

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the neighborhood. Also, some concern about resale value. There was talk about how one neighbor's sleeping hours were impacted by the kids being at school. There was concern about the driveway in the alley, and parking on the street, and how the kids impacted the neighbor's dog and excited him and made him bark too much. These concerns were heard.

Regretfully, last time I evidently offended some of the neighbors by some of my comments regarding the status of the neighborhood. I would like to apologize and to seek clarification in what I was trying to state. I did not mean to degrade their neighborhood. I meant to emphasize how I thought that having a neighbor like Miss Jana would only help to preserve their interests and that she can demonstrate that she is willing and able to help promote historic preservation, and not to bring it down. Many of the neighbors, including Jana, are deeply committed to historic preservation. However, I am not convinced that all the neighbors in the neighborhood are equally committed to historic preservation, and that potentially future owners in the neighborhood might also not be as interested. I believe that Miss Jana is committed to making the neighborhood safe and preserving its historic value. Again, I apologize for the misunderstanding. It was stated at the Planning and Zoning Meeting that parents would follow Miss Jana to another location. True. However, it would be a huge financial burden that is completely unnecessary, and a detriment to the neighborhood to lose a concerned neighbor.

We recognize that these are important issues and we have tried to make even more concessions since that meeting to try and demonstrate our commitment to honoring their requests. I think you will hear more tonight by others about the new parking arrangements, the efforts being made to minimize traffic, parking, and noise concerns, and how this business being allowed to operate will only help to further solidify economic and historic preservation in the downtown area. I do believe that Miss. Jana is an excellent teacher and will have a tremendous impact on our kids. She has done so with my little boy Brandon and I hope that she is allowed to continue to do so at this residence without further interruption.

Thank you for your time and consideration.

Mr. Banks re-appeared and stated that there were many parents that wanted to say something about his preschool and requested that they limit their comments.

Faith Bingham, 446 6th Street, appeared to state that most days she walks her son to preschool. There have been times when she did not have a working vehicle and if this preschool was not in the location that it was, her son would not be able to attend preschool. She has also shopped downtown more due to the location of the preschool.

Scott Dilley, 146 12th Street, appeared to state that his son and a nephew are students at the preschool. A big issue that was addressed at the Planning Commission Meeting was the alleyway. As a result of the work that will be done behind the home, that alleyway will be improved. Also, at the Planning Commission Meeting, the neighbor immediately to the north of the Maios, stated that he had no idea how long the preschool had been in operation.

Councilmember Groberg stated the preschool in its present size has only been operated for two months. Councilmember Groberg requested those who have questions or concerns regarding this preschool, or who are in opposition to come forward at this time.

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Sheryl Gombert, 353 North Ridge Avenue, appeared to give a history of this area of town. There were a few neighbors, including them, that wanted this area of town rezoned. The reason for the rezoning request was due to several businesses being operated in some of the homes in the area. That meant that the homes were not occupied 24 hours per day. As a result, a meth lab moved into the neighborhood. There was also a situation where people were being housed in this area in an alcohol rehabilitation center that should have been in jail. They were placed in this alcohol rehabilitation center overnight. There were police sirens, people breaking into cars and other things. At that time, her children were under the age of five. There were frequent visits in the middle of the night from police officers looking for offenders. Mrs. Gombert stated that they have not had good luck with businesses that come in, then leave the buildings at night and on weekends. The neighbors, at that time, requested that 2 blocks be rezoned to R-1. They wanted families to move in and occupy the homes. Mrs. Gombert stated that the Maios have not lived in their house for twenty years. She stated, further that they have been good neighbors. She stated that her issue is not with the Maios, it is that they want the neighborhood preserved for single-family homes and to have families occupying the homes 24 hours per day 7 days per week. Mrs. Gombert stated that there are three church preschools within this same area. There are also two large day care center/preschools running in the area. There have already been problems with traffic in the area due to the day care centers and preschools operating in the area. She stated, further, that the streets in this neighborhood are narrow. With parking allowed on both sides of the street, there is only room for one car to travel the street at a time. She understood why people supported Jana Maio, she is a wonderful woman. That is why the suggestion was made that if she were to relocate, people would follow her anywhere. Many of the comments made tonight are from people who are not in the rezoned R-1 area. Mrs. Gombert stated that Mrs. Maio is talking of increasing the student load to 120 children per day. Currently, there is only one dumpster servicing four houses, which takes care of all household garbage as well as lawn clippings and leaves. Mrs. Gombert stated that they would be opposed to any proposal to put a business in one of the homes in the rezoned area. The neighborhood should be preserved for families. Many families have restored the older homes. Following the rezoning, the area requested to be placed on the Historic Register.

Kerry Martin, 345 North Ridge Avenue, appeared to state that there are quite a few day care centers and preschools in the neighborhood. The Maio's home is really just a preschool and a house. The family does not live in the house. She stated that the alleyway is very narrow and shared her concern with increased traffic in the alleyway. Mrs. Martin stated that she has watched the Maio's cross the children at Ash Street. Ash Street is a busy street and it takes awhile to cross the children at this location. She stated that she was concerned for the Maio's plans in changing the home and whether those changes would keep the historic character of the building. Many of the facts are not clear - potential for 40 children and hours of operation. The people collecting signatures on the petition did not approach any of the neighbors within 300 feet of the subject property. Many of the homes in the area are rentals. Just because the renters signed the petition, does not mean that the owners agree with what is being proposed. She stated that she and her husband have lived in the neighborhood for more than twenty years. They have invested heavily in their home. Mrs. Martin stated that she believed in the community, in the downtown area, and in the historic district. They want to see these homes owned by people that live in them. Mrs. Martin stated that the Maios have taken good care of their home. There are no controls or regulations on day care centers and preschools. Once the Maios have the opportunity to operate, they could change their operation. The neighbors will have no control over that. This has become a factor of trust. They do not trust the Maios to operate the way they are promising. Mrs. Martin stated that she did not believe that the Maios care about the community the way that the rest of the neighbors do.

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Autumn Gombert, 353 North Ridge Avenue, appeared to state that there are five day care centers/preschools in their neighborhood. She stated that she attended one of those. They are nicely run. She believed that most of the children in their general vicinity or the rezoned R-1 property discussed earlier are grown up and in high school. There is no great need for another preschool to be added to this area. She stated that the Maios are great and would be followed wherever they chose to conduct this preschool.

John Martin, 345 North Ridge Avenue, appeared to state that he lives directly across the alley from the preschool residence. Mr. Martin stated that there was a much larger list of people that signed a petition to turn around the problems that were seen in the neighborhood and make it an asset to the community. He stated, further, that he did not doubt the good will of the Maios. There are a lot of satisfied customers to the preschool and they want continuity of care for their children. He stated that the alley was developed much earlier than the big sanitation trucks and utility trucks were made. If the alley is to be improved, there is only so much room to do that before it conflicts with the intended purpose of the alley. Mr. Martin stated that a portion of the back yard of this property will have to be made into a parking lot. He did not see how that could beautify or convenience the community. He stated that his point is not to take exception, except to clarify that this does not seem to be the right place for a preschool. Mr. Martin stated that the alley is not a secure place. Some people use excessive speed driving down the alley. There are portions of the alley where kids who belong to gangs move through.

Dave Kuhn, 205 Pevero Drive, appeared to state that he was not sure that the alleyway was a concern, where only two staff members would be parking there during the day.

Jana Maio, 420 Gullane, appeared as the applicant for the Conditional Use Permit. She apologized to the Mayor ProTem and the City Council for having taken so much time on this Conditional Use Permit request. She also apologized to the neighbors because they were not trying to offend anyone. She stated that her family has lived next to the Martins and the Gomberts for approximately twenty years. They enjoy the neighborhood. The reason they have not tried to sell their home is because the great turnover in the area possibly would bring in someone who would not care for it and love it as they have. She stated that they have no interest in posting signage for the preschool. They want no one to think of the home as anything other than it is, which is a single-family dwelling where she is able to teach preschool classes. There are many preschools in the area. Comparing the Maios to those preschools is very different. In most of those preschools, and she has observed many of them, they are simply a babysitting day care where they separate with a teacher in order to put one individual staff over a number of children. There are no guidelines to those day care centers. At Cat and the Fiddle Preschool, not only do they take in children that are unable to afford preschool, they follow strictly the "No Child Left Behind Act". They also conduct IRI Testing and ISAT Testing. This is a very different hands-on environment. The Maios have no interest in babysitting. Therefore, there is no need to occupy their lot with 40 children at a time. It does not benefit the Maios. The parents of the children attending her preschool expect to see results from the testing that is done. When there are 25 children in one spot, they are merely conducting crowd control. For the money that the parents do pay her, the parents expect to see a result. She cannot provide those results by providing children. Mrs. Maio stated that she is willing to sign whatever needs to be signed to satisfy the neighbors that they will not exceed a 15-17 child ratio per session. The Maios no longer use the alleyway. They did not realize until the public hearing before the Planning Commission that it bothered some of the residents in the area. There are high retaining walls behind their homes, which she believed provides them with a bit of quiet, even though the children are rarely outside. Mrs. Maio stated that she hoped that the City Council would absolutely consider this a necessity. Several people from the neighborhood are served by this preschool. She stated that she could not afford a third

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house payment. It has been stated that the clientele will follow. They may well follow her, but she stated that she is still making a payment on a house. This provides her an opportunity to care for children, to teach them and still maintain her single-family home the way she would like it to be maintained. She thanked the Mayor and Council for their time.

Mr. Banks re-appeared to state that the Maios have told him that if the garbage is the problem, they will get rid of their own garbage. They hope to have alleviated any problem with the alleyway. The only negative impact heard is that the alleyway somehow causes a problem. If that is alleviated, the impact should be alleviated. The other testimony that has been heard is that the neighbors do not want businesses in this area. Mr. Banks stated that this is a business, but it is going to preserve the character and harmony of that neighborhood. It is not going to be a rental property. People driving through the neighborhood will not know that there is a business in that home. The City Council has the opportunity to limit the Conditional Use Permit how it sees fit. Mr. Banks invited the City Council to grant the Conditional Use Permit.

Councilmember Groberg requested to know whether it would be alright with the applicant if there were a condition imposed that the home needed to be occupied by family. Mr. Banks indicated that the home would not be occupied by the Maios. If the City Council wanted it to be occupied by any family, potentially someone could live upstairs. Mr. Banks stated that he was not certain why occupation by a family would be criteria. Councilmember Groberg stated that he was not arguing that point, he was suggesting whether that would work for the Maios. Someone living in this home is not going to make a positive impact on the neighborhood. The home is owned by the business and it is going to be preserved. The employees and family are there every day. A meth lab will not open at this location.

Councilmember Groberg stated that he would like to find a proper solution to this matter. Councilmember Groberg requested to know whether it would work for the Maios if one of the conditions was that a certain percentage of the students came from this immediate neighborhood.

Vince Maio, 420 Gullane, appeared to state that the State of Idaho does not have funding for preschools, but a person needs to be real careful about having a occupant in a preschool. He understood that there is an issue with the house becoming rundown because they are not there 24 hours per day. Mr. Maio stated that he would sign a pact to live in the home if that would alleviate the concern from the neighbors. Mr. Maio stated that the Planning Commission wrote in the Findings of Fact and Conclusions of Law that, "there has been no testimony that this preschool serves the immediate area". There was testimony presented this evening that contradicts that. Mr. Maio stated that they planned to serve the local community more. He stated, further, that the whole idea behind Mrs. Maio's plan was to get more of the needy people in that area into her preschool. The Maios were there to bootstrap education.

Mr. Banks stated that the intent of this preschool is to service the neighborhood. At this point in time, they do not know the percentage of children that live in that area.

Mrs. Maio re-appeared to request a definition of "immediate area". She stated, further, that she would try to fill whatever conditions the City Council placed on granting the Conditional Use Permit. They are working with the schools that service her area and that is where she gets her clientele.

Sheryl Gombert, 353 North Ridge Avenue, re-appeared to state that what she has heard was fine, but the Maios did not address her concern for after hours and weekends. There are gangs that run through this particular area because of the R-3 Zoning to the west. The graffiti is present. Several of her neighbors have had to put in security systems because there are break-ins in the neighborhood. That is the way it is when there

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is beautiful landscaping, big trees, and coverage. She stated that her concern is still that she does not want that element in with her children. She has had to battle that issue twenty years ago.

There being no further discussion either in favor of or in opposition to this Conditional Use Permit request, Mayor ProTem Hardcastle closed the public hearing.

Following a brief recess, Councilmember Hally commented that the issue of the alley, parking, and preservation of the neighborhood seem to be the three central complaints. He stated that in his opinion, preservation of the neighborhood is not going to be compromised. He could not see a lot of filtering of outside meth labs coming into the neighborhood. He stated that he wanted to make sure that a written agreement is reached with the United Methodist Trinity Church for parking arrangements.

The City Attorney stated that if the City Council moved to approve the Conditional Use Permit, the written agreement with United Methodist Trinity Church could be made a condition of that approval.

Councilmember Lehto requested to know whether the Planning and Building Division was aware that the applicant would be starting preschool in September, 2005. He also requested to know whether this was a matter of timing that the Conditional Use Permit went before the Planning Commission.

The Planning and Building Director stated that the timeline was fairly well depicted in the information provided by the Maios. She stated that the Planning and Building Division office was contacted at the beginning of March, 2004 that there was a preschool or day care center operated at this facility and that the owners were no longer living at this home.

Councilmember Lehto stated that he believed that the real operation began in September, 2005. He requested to know who initiated the first contact. He wanted to know whether a day care center/preschool was in operation, a neighbor complained about it, and the Conditional Use Permit was applied for at that time; or, whether the Planning and Building Division knew that a preschool would be started in September and it was a matter of bringing it before the Planning Commission.

The Planning and Building Director explained that approximately a year ago, the Maios went to the Planning and Zoning Division to talk about the requirements for a preschool. Staff does not remember hearing anything further about this preschool until a complaint was received in March, 2005. The Planning and Building Director stated that she thought the Maios were getting their information together to apply for the Conditional Use Permit during that time. She stated, further, that there are three letters in their file telling the Maios that they need a Conditional Use Permit and building permit in order to operate a preschool in this location. After March, 2005, the Planning and Building Division understood that the Maios were trying to move towards compliance. At one point, it was understood that the Maios had moved back into the home in order to keep it as a home occupation. The Planning and Building Division stated that they believed that there were less than 12 children per session, and as a home occupation that would be permitted.

Councilmember Lehto stated that as a City Councilmember, he was trying to determine whether process was followed or if the Maios were just caught. It appears that the applicants contacted the Planning and Building Division and initiated the process.

Councilmember Shurtleff requested to know in the criteria for granting a Conditional Use Permit, whether there was anything that established whether there had to be a need for it.

The Planning and Building Director stated that there was no criteria that addressed whether there was a need for it.

Councilmember Shurtleff requested to know whether the other day care centers/preschools were granted a Conditional Use Permit.

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The Planning and Building Director stated that the other day care centers/preschools are a use by right in an R-3A Zone.

Councilmember Lehto stated that this area has a variety of uses that are non-conforming. He requested the Planning and Building Director to define "multi-family" dwellings.

The Planning and Building Director stated that the multi-family buildings are one or more rented units per building. She stated, further, that Harbor House use is institutional.

Councilmember Hally requested to know whether there were a lot of entities grandfathered in after the R-1 rezoning.

The Planning and Building Director stated that there were many entities that were grandfathered in at the time of the rezoning. That was part of the issue in the R-1 zoning request that a large part of this area had developed or converted under the R-3A zone. There was also a lot of reinvestment by people who owned single-family homes and wanted to protect those homes.

Councilmember Hally requested to know whether it was the Planning and Building Director's opinion that the R-1 Zone was requested to preserve the historical value of the homes in that area.

The Planning and Building Director stated that she believed that the R-1 Zone was requested to preserve the single-family character of the homes in the area. There were some uses that had been there for years that were not single-family homes and not creating problems. A couple of new uses came in and there were problems with use of drugs in public areas, nuisances, and graffiti. It was hoped that if those uses were no longer permitted the area would become stronger for single-family homes.

Councilmember Groberg requested to know what uses are allowed under a Conditional Use Permit in an R-1 Zone.

The Planning and Building Director stated that churches, schools, parks, day care centers, and cemeteries.

Councilmember Groberg stated that the purpose of the Conditional Use Permit in an R-1 area is to allow uses that are not strictly residential, but benefit a residential area. In reviewing the Findings of Fact and Conclusions of Law from the Planning Commission, he felt that this was the way that they were looking at this request. Councilmember Groberg stated that the City Council was presented with more evidence than was presented at the Planning Commission public hearing. The Planning Commission found that there was no testimony that the preschool serves the immediate area and is an amenity to the neighborhood. The testimony that has been presented to the City Council is that the preschool serves some people in the neighborhood. Councilmember Groberg stated that it has been represented that there is a pending agreement with United Methodist Trinity Church to use their parking lot as a place to drop children off and to pick them up. The Zoning Ordinance requires that in order for something of that nature to be used, there would have to be a written enforceable agreement with at least a five year term on it. He stated further that he questioned the reliability of the information that the preschool serves the neighborhood. The City Council has not given definition as to what the neighborhood is. In accepting the representation that the applicant gave the City Council of where those live who favor approval of this application, this preschool does serve the area.

It was moved by Councilmember Groberg, to deny the Conditional Use Permit for a pre-school in an R-1 (Single-Family Residential) Zone located generally at 344 North Water Avenue and legally described as Lot 4, Block 34, Original Townsite, for the reason that it does not fit clearly within the reason that the City Council wants to grant a Conditional Use Permit in the neighborhood. For lack of a second, the motion died.

It was moved by Councilmember Groberg, to table this matter until such time as the City Council can verify that there is a written agreement for a term of at least five

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years to use the United Methodist Trinity Church parking lot for a drop off/pick up area for the preschool and, further, verify the amount of use of the preschool to the surrounding neighborhood. For lack of a second, the motion died.

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to approve the Conditional Use Permit for a pre-school in an R-1 (Single-Family Residential) Zone located generally at 344 North Water Avenue and legally described as Lot 4, Block 34, Original Townsite, with the following conditions:

- A. A written agreement for a term of five years or longer be executed with the United Methodist Trinity Church for parking lot usage for a drop off/pick up area for the preschool.
- B. Limit student population to 18 students per session.
- C. Limit the operation to the proposed 9:00 a.m. to 4:00 p.m., Monday through Thursday.
- D. To dispose of their own refuse.
- E. That no signage be placed on or at the home.

Councilmember Lehto stated, further, that the applicant is always free to seek relief from any of the conditions through this process.

Councilmember Lyon stated that he appreciated everyone for being at the meeting. This exemplifies what the system is about in participatory government in having a voice. As he looked through the information provided and through the Findings of Fact and Conclusions of Law, he read that granting the Conditional Use Permit to the Cat and the Fiddle Preschool would disrupt the character and the harmony of this neighborhood. The City Council granted a Conditional Use Permit to put an Alternative High School in the same type of a neighborhood. He heard it stated that the only appropriate reason for a Conditional Use Permit is to do something for the neighborhood that benefits the neighborhood, and preserves the character and harmony of the neighborhood. Councilmember Lyon drew some comparisons between the Alternative High School and the Cat and the Fiddle Preschool. The Alternative High School was given a limit of 200 students, 100 per session. The Cat and the Fiddle Preschool would have less than 50 students. The hours of operation for the Alternative High School were granted for Monday through Friday, until 7:00 p.m. in the evening. The Cat and the Fiddle Preschool would be open Monday through Thursday, from 9:00 a.m. to 4:00 p.m. The residents of the neighborhood said that parking on the public street, by the students attending the Alternative High School, would create disharmony in the neighborhood. The residents were told that any one can park on the public street as long as they are compliant with the Parking Ordinance. The Cat and the Fiddle Preschool would use off-street parking. Neighbors have told him that while the Alternative High School has been in operation, they have witnessed students being arrested there. He did not believe that any preschoolers would be arrested. The Conditional Use Permit for the Alternative High School has introduced hundreds of teenage drivers into that neighborhood. He did not believe that any of the preschoolers would be doing much driving. Councilmember Lyon stated that there were citizens' petitions given to City Council with approximately 500 signatures, saying that an Alternative High School would disrupt the harmony and character of the neighborhood, yet that point was ignored by the Planning and Building Commission and four members of the City Council, along with the Mayor. Councilmember Lyon and Councilmember Groberg

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were the exceptions. The Cat and the Fiddle Preschool has submitted a petition with 40 signatures stating that there will be no disruption of the harmony of the neighborhood. Councilmember Lyon stated that the applicants, in his opinion, have made a good faith effort to address the concerns of their neighbors. Those concerns are legitimate as this is a historic district and it is important to maintain the integrity of that district. He stated that, in his opinion, a preschool would attract young families to the area. The traffic issue has been addressed. If the Conditional Use Permit was denied, he wondered what would prevent that home from becoming a rental, or purchased by someone who would not be home for long periods of time. Councilmember Lyon stated that with the five conditions in place, he could wholeheartedly support this.

Roll call as follows:

Aye: Councilmember Lyon
Councilmember Shurtleff
Councilmember Lehto
Councilmember Hally

Nay: Councilmember Groberg

Abstain: Councilmember Hardcastle

Motion Carried.

Mayor ProTem Hardcastle requested Councilmember Groberg to conduct a public hearing for consideration of a rezoning from R-3A (Apartments and Professional Offices), R-1 (Single-Family Residential), and R-2A (Apartments not to exceed 8-plexes) to R-3 (Apartments); also, request for approval of a final plat, located generally west of 5th West and north of 65th South, legally described as Park Place, Division No. 1. At the request of Councilmember Groberg, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: REQUEST TO REZONE FROM R-1, R-2A, AND R-3A TO R-3,
PARK PLACE, DIVISION NO. 1

Attached is the application to rezone 20.7 acres from R-1, R-2A, and R-3A to R-3. This parcel is west of and adjacent to South 5th West (Park-Taylor) and north of 65th South (York Road). The Planning Commission recommended approval of this rezoning request at its October 4, 2005 Meeting in a 6 to 3 vote. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this rezoning request:

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Slide 1	Vicinity Map showing surrounding zoning
Slide 2	Aerial Photo
Slide 3	Comprehensive Plan
Slide 4	Aerial Photo
Slide 5	Preliminary Plat
Exhibit 1	Planning Commission Minutes dated October 4, 2005
Exhibit 2	Staff Report dated October 4, 2005
Exhibit 3	Map of proposed final plat on existing zoning

The Planning and Building Director stated that a portion is shown on the Comprehensive Plan as higher density residential. That is being driven by policies within the Comprehensive Plan that note that if a development is near an arterial or a collector street, that is a suitable area for higher density residential. The development provides for a residential collector street going to South 5th West. The Preliminary Plat is for 329 homes. Normally, a traffic study would be required for this Preliminary Plat. There are only three access points to arterials from this Preliminary Plat. The developer proposed that he would construct turning lanes at these entrances. Therefore, a traffic study is not required. Traffic studies are also conducted to determine whether signalization needs to be changed or added. Traffic studies are also conducted to determine the impact on surrounding neighborhoods. There is no surrounding neighborhood. Traffic studies are conducted to look at the internal street plan. This internal street plan is circuitous.

Bob Utterbeck, 3351 Charleston Lane, appeared to state that a little bit of the reasoning behind the rezoning request is that the cost of lots has sky rocketed. They have gone from \$200.00 per front foot (8 years ago) to \$400.00 per front foot. They are trying not only to bring the front foot cost down, but the developer is trying to provide a smaller lot to purchase for a larger footprint to build on. They are trying to bring the cost down and to get some of the people who are building in the County to build in the City.

Allen Kelch, 7466 South 15 West, appeared to state that he owns the farm two farms to the east. The whole neighborhood has been worked towards higher end single-family residences. He expressed his concern for the apartment designation. Mr. Kelch stated that agricultural land is being wasted on too large of lots for these large homes. He was glad to see the smaller lot sizes. If this zone is granted, what is going to stop each phase of the project from not becoming apartments. He stated that he would like to see the smaller lot sizes with higher-end homes on them.

Mr. Utterbeck re-appeared to state that the smaller lots that are shown with the R-3 zone, are similar to those in the Waterford Addition with townhouses being built. The homes will be valued between \$190,000.00 to \$260,000.00.

There being no further discussion either in favor of or in opposition to this rezoning request, Mayor ProTem Hardcastle closed the public hearing.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the rezoning from R-3A (Apartments and Professional Offices), R-1 (Single-Family Residential), and R-2A (Apartments not to exceed 8-plexes) to R-3 (Apartments) located generally west of 5th West and north of 65th South, legally described as Park Place, Division No. 1 and, further, that the City Planner be instructed to reflect said zoning change on the official zoning map located in the Planning Office. Roll call as follows:

Aye:	Councilmember Hardcastle
	Councilmember Lehto
	Councilmember Shurtleff
	Councilmember Hally
	Councilmember Lyon
	Councilmember Groberg

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Nay: None

Motion Carried.

Annexation Proceedings Prior to Platting (Kevin Spencer, Metes and Bounds Property located generally on the south side of East Sunnyside Road, north of Fountain Bleu Lane, east of Merlin Drive, and legally described as a parcel of land in the North Quarter Corner of Section 33, Township 2 North, Range 38, East of the Boise Meridian) was withdrawn by the applicant.

Mayor ProTem Hardcastle requested those to come forward who had issues for the City Council that were not otherwise listed on the Council Agenda.

Larry Smith, 915 7th Street, appeared to express some of his concerns:

1. Tests were conducted on Crow Creek and they are tied to the sewer line. There is not an answer yet on the backwash of the water.
2. Indiscriminate spraying of pesticides and herbicides around the area. This needs to be controlled.
3. He has a neighbor who fired fireworks from 9:00 p.m. to 10:30 p.m. He had an electronic apparatus that shot off 8 to 10 rockets at a time. There was a lot of debris that was left behind from this display. There is approximately 6 months to write some regulations for control of fireworks. If there is a law on the books, it needs to be enforced.
4. He stated that he received his tax bill, and his City taxes increased to 7.07%. He had hoped for more relief than that.

Councilmember Groberg stated that the City Council hears what Mr. Smith is saying. The re-evaluations make the reduction in the levies possible. Hopefully, the City taxes will continue to go down as the City Council continues to reduce the levy.

Councilmember Hardcastle requested to know whether Mr. Smith had been visiting with the Bonneville County Assessor. He stated that he has spent a lot of time with him.

Councilmember Lyon stated that getting relief for the taxpayer has been a top issue for him. He was glad to see that Mayor-elect Fuhriman is also taking on that issue.

Councilmember Groberg requested that the Planning and Building Director provide a Findings of Fact, Conclusions of Law, and Decision for the public hearing regarding the Conditional Use Permit for the Preschool at 344 North Water Avenue.

The Airport Director submitted the following memo:

City of Idaho Falls
November 8, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mike Humberd, Director of Aviation
SUBJECT: AMENDMENT TO LEASE AGREEMENT WITH FOOTE DRIVE STORAGE

Attached for City Council approval is an Amendment to the Lease Agreement with Foote Drive Storage to change their leased property description. The remaining terms and conditions of the lease do not change.

The City Attorney has seen and approved this document.

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The Airport Division recommends approval and requests the Mayor be authorized to execute the document.

s/ Mike Humberd

It was moved by Councilmember Lyon, seconded by Councilmember Hally, to approve the Amendment to the Lease Agreement with Foote Drive Storage and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon

Nay: None

Motion Carried.

The Public Works Director submitted the following memo:

City of Idaho Falls
November 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: PARK PLACE DEVELOPMENT AGREEMENT RESOLUTION

Attached is a proposed resolution and supportive memorandum for the Park Place Development Agreement. Utilities associated with Park Place development are critical to serving other areas of the City; and, given time constraints and the impracticality of separating the City's needs from those of the developer, it is necessary that the Park Place developer install these utilities, including those for which the City is responsible. The attached resolution sets forth justification for the Park Place developer installing these utilities without City compliance with formal bidding procedures.

Public Works recommends approval of this resolution; and, authorization for the Mayor and City Clerk to sign the documents.

s/ Chad Stanger

RESOLUTION NO. 2005-13

WHEREAS, the City has received an application for annexation for the Park Place Subdivision, Division No. 1;

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WHEREAS, the developer of said subdivision also contemplates the annexation and development of several other divisions within said Subdivision;

WHEREAS, the construction of a sanitary sewer trunk line is urgently needed to serve the Park Place Subdivision and also other adjacent subdivisions the development of which is contemplated to occur immediately;

WHEREAS, the developer of the Park Place Subdivision has offered to construct such sanitary sewer trunk line within property presently owned by such developer and within the rights-of-way contemplated for future divisions within the Park Place Subdivision, all without charge or cost to the City for such right-of-way;

WHEREAS, said developer already owns an inventory of thirty-six inch (36") OD sanitary sewer pipe, and twelve inch (12") OD force main, which was purchased prior to the recent precipitous rise in material costs for such sewer pipe as a result of increasing energy prices; and, whereas, developer has offered to provide such sewer pipe line to the City at its original invoiced cost;

WHEREAS, the City has explored other options to construct such sanitary sewer trunk line through the use of other routes and locations (hereafter referred to as "Alternate Route") using existing rights-of-way under public ownership;

WHEREAS, the construction of the sanitary sewer trunk line within such Alternate Routes would necessitate the construction of an additional sanitary sewer lift station and would require considerably more sewer pipe, in comparison to the amount of pipe required for the route proposed by said developer;

WHEREAS, the City contemplates that the construction of the sanitary sewer line by said developer within the route traversing through the Park Place Subdivision will save the City approximately four hundred thousand dollars (\$400,000) in comparison to the construction of the sanitary sewer trunk line through other Alternate Routes;

WHEREAS, the City believes that an emergency exists and that the construction of such sanitary sewer trunk line is necessary to safeguard the life, health, and property of the citizens and residents located within the vicinity and area served by such proposed sanitary sewer trunk line;

WHEREAS, the City believes that competitive solicitation of bids under the circumstances is impractical, disadvantageous and unreasonable under the circumstances;

WHEREAS, the City believes that purchase of such sanitary sewer pipe and the installation thereof within the rights-of-way owned by said developer is required to respond to a situation which will be detrimental to the public welfare or safety if not resolved immediately;

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WHEREAS, it is impractical or impossible to physically segregate, for competitive bidding purposes, the construction of the sewer main lines necessitated by the construction of the Park Place Subdivision, from the construction required by the sanitary sewer trunk lines serving the entire area;

WHEREAS, pursuant to the provisions of Idaho Code § 67-2803, the City is authorized to purchase real property and rights-of-way without compliance with competitive bidding procedures;

WHEREAS, pursuant to Idaho Code § 67-2808(1) the City is authorized to undertake emergency work without compliance with formal bidding procedures, when necessary to safeguard life, health or property.

WHEREAS, pursuant to Idaho Code § 67-2808(2) the City is also authorized to purchase personal property without compliance with formal bidding procedures, when competitive solicitation is impractical, disadvantageous and unreasonable under the circumstances;

WHEREAS, pursuant to Idaho Code §67-2803(4) procurement of professional engineering services is exempt from compliance with formal bidding procedures;

WHEREAS, the Public Works Division has submitted a Memorandum dated November 7, 2005, to the Public Works Committee documenting the foregoing circumstances;

NOW, THEREFORE, the City hereby declares that an emergency exists and that there is only one source for purchase of said sanitary sewer pipe within the time frame dictated by such need and that the City of Idaho Falls, Public Works Division and the Municipal Services Division be and hereby are authorized to purchase such sanitary sewer line and install the same without compliance with the formal bidding procedures set forth in Idaho Code §67-2806.

DATED this 11th day of November, 2005.

s/ Ida Hardcastle
Ida Hardcastle
Mayor ProTem

ATTEST:

s/ Rosemarie Anderson
Rosemarie Anderson
City Clerk

(SEAL)

Councilmember Shurtleff stated that the City Council has done this on many occasions. Typically, this is not done by resolution. This is being done by resolution, due to the fact that there has been a change in the State Law. Councilmember Shurtleff showed a map

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regarding this proposal. This would result in a total savings to the City of Idaho Falls of \$400,000.00. It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Resolution and Supportive Memorandum for the Park Place Development Agreement and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memo:

City of Idaho Falls
November 3, 2005

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: DEVELOPMENT AGREEMENT AND FINAL PLAT – PARK PLACE,
DIVISION NO. 1

Attached is the Development Agreement and Final Plat entitled Park Place, Division No. 1. This is a final plat for 70 single-family lots, either attached or detached, and two landscape lots. It is located west of and adjacent to South 5th West. The Planning Commission recommended approval of this final plat at its October 4, 2005 Meeting with conditions which have been incorporated into the plat or the improvement drawings. This matter is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to approve the Development Agreement for Park Place, Division No. 1 and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Hally
Councilmember Lehto
Councilmember Lyon
Councilmember Shurtleff
Councilmember Hardcastle

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Nay: None

Motion Carried.

It was moved by Councilmember Groberg, seconded by Councilmember Hardcastle, to accept the Final Plat for Park Place, Division No. 1 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Lyon
Councilmember Lehto
Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

City of Idaho Falls
November 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: CHANGE ORDER NO. 37 – SUNNYSIDE INTERCHANGE TO I-15B

Attached is proposed Change Order No. 37 to the State of Idaho Transportation Department's Sunnyside Interchange to I-15B Project. This project includes City owned utilities.

The Change Order requires that water lines relocated beneath interchange ramps be placed in casing at an additional cost of \$5,300.00.

Public Works recommends approval of this Change Order; and, authorization for the Mayor and City Clerk to sign the contract documents.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve Change Order No. 37 to State of Idaho Transportation Department for the Sunnyside Interchange to I-15B Project and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally
Councilmember Hardcastle
Councilmember Lyon

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Councilmember Lehto
Councilmember Groberg
Councilmember Shurtleff

Nay: None

Motion Carried.

City of Idaho Falls
November 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: RIGHT-OF-WAY CONTRACT – MARC AND GLORIA DILLON
STP – 7446(101) KEY NO. 7979 PARCEL 91

Attached is a Right-of-Way Contract between the City and Marc and Gloria Dillon in the amount of \$6,261.00 for right-of-way needed on the Sunnyside Road Project. Public Works recommends approval of this contract; and, authorization for the Mayor and City Clerk to sign the contract documents.

s/ Chad Stanger

It was moved by Councilmember Shurtleff, seconded by Councilmember Lyon, to approve the Right-of-Way Contract between the City of Idaho Falls and Marc and Gloria Dillon in the amount of \$6,261.00 for right-of-way needed on the Sunnyside Road Project and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Shurtleff
Councilmember Lyon
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto
Councilmember Hally

Nay: None

Motion Carried.

City of Idaho Falls
November 7, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: MILLIGAN ROAD RIGHT-OF-WAY VACATION

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As previously authorized, the City Attorney has prepared the attached documents to vacate portions of Milligan Road north of Pancheri Drive. The owner and developer of adjoining properties has platted alternative rights-of-way and easements to provide access to these properties.

Public Works recommends approval of this vacation; and, authorization for the Mayor and City Clerk to sign the necessary documents.

s/ Chad Stanger

At the request of Councilmember Shurtleff, the City Attorney read the following Ordinance by title only:

ORDINANCE NO. 2626

AN ORDINANCE VACATING A PORTION OF A PUBLIC ROAD WITHIN THE CITY OF IDAHO FALLS, IDAHO; PARTICULARLY DESCRIBING THE PORTION OF SAID ROAD; AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER A QUITCLAIM DEED CONVEYING THE VACATED ROAD TO THE OWNERS OF THE ADJACENT LAND, PROVIDING FOR EFFECTIVE DATE OF THE ORDINANCE.

The foregoing Ordinance was presented by title only. Councilmember Shurtleff moved, and Councilmember Lyon seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Lyon
Councilmember Shurtleff
Councilmember Hally
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls
November 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: AUTHORIZATION TO BID – MCDERMOTT FIELD STADIUM RECONSTRUCTION

NOVEMBER 10, 2005

The Division of Parks and Recreation respectfully requests authorization to receive bids for the reconstruction of the McDermott Field Stadium located in Highland Park.

s/ David J. Christiansen

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to give authorization to advertise to receive bids for the reconstruction of the McDermott Field Stadium located in Highland Park. Roll call as follows:

Aye: Councilmember Lyon
Councilmember Shurtleff
Councilmember Hally
Councilmember Groberg
Councilmember Hardcastle
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls
November 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: CITY OF IDAHO FALLS/ELMORE SPORTS GROUP, LTD.
MASTER AGREEMENT

Attached for your consideration is a Master Agreement between the City of Idaho Falls, Elmore Sports Group, Ltd. and the Idaho Falls Chukars Baseball Club, Inc. The purpose of the agreement is to set forth the terms and conditions for the construction of a new baseball stadium located in Highland Park. The agreement has been reviewed and approved by legal counsel representing all parties.

It is, therefore, requested that the City Council approve and authorize the Mayor and City Clerk to sign and execute said agreement.

s/ David J. Christiansen

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Master Agreement between the City of Idaho Falls, Elmore Sports Group, Ltd. and the Idaho Falls Chukars Baseball Club, Inc. and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Groberg
Councilmember Hardcastle
Councilmember Shurtleff

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Councilmember Hally
Councilmember Lyon

Nay: None

Motion Carried.

City of Idaho Falls
November 10, 2005

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, Parks and Recreation Director
SUBJECT: HIGHLAND PARK STADIUM NAMING RIGHTS AGREEMENT

Attached for your consideration is a Naming Rights Agreement between the City of Idaho Falls, the Idaho Falls Chukars Baseball Club, Inc. and Melaleuca, Inc. This agreement sets forth the terms and conditions to the naming rights for the baseball stadium to be constructed in Highland Park. This agreement has been reviewed and approved by legal counsel representing all parties.

It is, therefore, requested that the City Council approve and authorize the Mayor and City Clerk to sign and execute said agreement.

s/ David J. Christiansen

Councilmember Hally stated that in general throughout the United States in athletic facilities, people who donate a significant amount of money, are granted naming rights agreement.

Councilmember Groberg stated that from the outset, the right to give naming rights has been part of the understanding that the City has had with the Chukars organization. This is a culmination of something that has been part and parcel of this agreement from the beginning. Several citizens have said that if that had that understanding from the beginning, they would quit complaining.

It was moved by Councilmember Hally, seconded by Councilmember Groberg, to approve the Naming Rights Agreement between the City of Idaho Falls, the Idaho Falls Chukars Baseball Club, Inc. and Melaleuca, Inc. and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Lehto
Councilmember Shurtleff
Councilmember Hally
Councilmember Lyon
Councilmember Groberg

Nay: None

Motion Carried.

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The City Attorney thanked the Chukars organization and their legal counsel. It was professional conducted.

There being no further business, it was moved by Councilmember Shurtleff, seconded by Councilmember Lehto, that the meeting adjourn at 10:35 p.m.

CITY CLERK

MAYOR
