

JANUARY 27, 2000

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, January 27, 2000, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor ProTem Ida Hardcastle
Councilmember Bruce Rose
Councilmember Brad Eldredge
Councilmember Michael Lehto
Councilmember Joe Groberg

Absent was:

Mayor Linda Milam
Councilmember Beverly Branson

Also present:

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

Councilmember Hardcastle announced that Councilmember Beverly Branson was seriously ill and in the hospital this evening. She stated that our love and prayers are with her and her family at this time. Councilmember Hardcastle stated that Councilmember Branson would be in attendance if she could be.

The City Clerk read a summary of the minutes for the January 13, 2000 Regular Meeting. It was moved by Councilmember Eldredge, seconded by Councilmember Lehto, that the minutes be approved as printed. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Rose
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

CONSENT AGENDA ITEMS

The City Clerk presented several license applications, including BARTENDER PERMITS to Elizabeth A. Burns, Amber M. Hansen, Troy Hansen, Jessica L. Jeppesen, and Michael V. McDonald, 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 January 27, 2000.

The Parks and Recreation Director submitted the following memos:

JANUARY 27, 2000

City of Idaho Falls
January 18, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, CLP, Parks and Recreation Director
SUBJECT: SAGE LAKES GOLF COURSE LAKE SEALING
PROJECT NO. 3-39-31-3-PRK-2000-09

The Division of Parks and Recreation respectfully requests authorization to solicit bids for the Sake Lakes Golf Course Lake Sealing.

Funds for this project have been budgeted in the 1999-2000 FY budget.

s/ David J. Christiansen

City of Idaho Falls
January 18, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, CLP, Director of Parks and Recreation
SUBJECT: SAGE LAKES GOLF COURSE PARKING LOT PAVING
PROJECT NO. 3-38-31-3-PRK-2000-10

The Division of Parks and Recreation respectfully requests authorization to solicit bids for the Sage Lakes Golf Course Parking Lot Paving.

Funds for this project have been budgeted in the 1999-2000 FY budget.

s/ David J. Christiansen

The Public Works Director submitted the following memos:

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – HITT ROAD IMPROVEMENTS

Public Works requests authorization to advertise to receive bids to construct street improvements on Hitt Road in the vicinity of 25th Street.

s/ Chad Stanger

JANUARY 27, 2000

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – SIDEWALK AND PARKING LOT
IMPROVEMENTS AT SEWER DEPARTMENT BUILDING

Public Works requests authorization to advertise to receive bids to construct sidewalk and parking lot improvements at the Sewer Department Building located at South Yellowstone and Pedersen Street.

s/ Chad Stanger

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: BID AUTHORIZATION – WATER LINE REPLACEMENT, 9TH
STREET, FROM HOLMES AVENUE TO IDAHO CANAL

Public Works requests authorization to advertise to receive bids for a water line replacement located in 9th Street from Holmes Avenue to the Idaho Canal.

s/ Chad Stanger

It was moved by Councilmember Eldredge, seconded by Councilmember Lehto, to approve the Consent Agenda in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg
Councilmember Rose

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Mayor ProTem Hardcastle requested Councilmember Rose to conduct the Annexation Proceedings for Blue Ridge Estates, Division No. 3. At the request of

Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

JANUARY 27, 2000

City of Idaho Falls
January 22, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ANNEXATION REQUEST – BLUE RIDGE ESTATES, DIVISION
NO. 3

Attached is the Final Plat, Annexation Agreement, and Annexation Ordinance for Blue Ridge Estates, Division No. 3. The requested initial zoning is R-1, Single-Family Residential. The Final Plat consists of eleven lots and is located south of Pancheri Drive, east of Bellin Road, and north of Mill Road. The Planning Commission reviewed this annexation request in November, 1999, and recommended approval. The Planning Department concurs in this recommendation. The request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Assistant Planning and Building Director, Todd Meyers, appeared to locate the subject area on a map and further explain the request. Following is a list of exhibits used in connection with this annexation request:

Slide 1	Vicinity Map
Slide 2	Aerial Photo
Slide 3	Final Plat
Slide 4	Portion of Zoning Ordinance relating to the R-1 Zone
Exhibit 1	Planning Commission Minutes from November 8, 1999
Exhibit 2	Staff Report
Exhibit 3	Plat Review Check List
Exhibit 4	Surveyor Check List

The Final Plat has been reviewed by all of the appropriate City Departments. The Final Plat is in compliance with the Subdivision Ordinance, Comprehensive Plan, generally accepted Engineering practices, and was approved by the City Engineer and City Surveyor.

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, appeared to state that this annexation is in compliance with all City regulations and the Preliminary Plat. He stated that he is working with the Canal Company closely and will be sure to raise the grade along the canal to strengthen the bank.

Councilmember Rose requested those in favor of this annexation to appear at this time. There being no one to testify in favor of this annexation request, Councilmember Rose requested those in opposition to this annexation request to appear.

Dr. Rheim Jones, 2799 Sunnybrook Lane, appeared to question whether a Traffic Impact Study was required on this development and what the results of the study were.

The Planning and Building Director appeared to state that a Traffic Impact Study was required, as this development will be approximately 200 single-family detached homes. With an average trip rate of 1.01 peak hour traffic will be at approximately 200 peak

hour trips. There is also an access to Pancheri Road, so a Traffic Impact Study was required. The results of the Study dealt with access design, requiring center turn lanes into this subdivision in order to move traffic on Bellin Road, Mill Road, and Pancheri Road.

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Mr. Kofoed re-appeared to state that the Traffic Impact Study affected Division No. 1 and No. 2, but Division No. 3 of Blue Ridge Estates is basically unaffected.

There being no further comment, Mayor ProTem Hardcastle closed the public hearing.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to accept the Final Plat for Blue Ridge Estates, Division No. 3 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign the Final Plat since it complies with Title 10, Chapter 1 of the Idaho Falls City Code. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Annexation Agreement for Blue Ridge Estates, Division No. 3 and, further, give authorization for the Mayor and City Clerk to sign said Agreement. Roll call as follows:

Aye: Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Hardcastle
Councilmember Groberg

Nay: None

Motion Carried.

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

ORDINANCE NO. 2359

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS, IDAHO; DESCRIBING THESE LANDS; REQUIRING THE FILING OF THE ORDINANCE AND AMENDED CITY MAP AND AMENDED LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND ESTABLISHING EFFECTIVE DATE.

The foregoing Ordinance was presented by title only. Councilmember Rose moved, and Councilmember Eldredge 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 and the Ordinance be passed on all three readings. Roll call as follows:

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Aye: Councilmember Lehto
Councilmember Eldredge
Councilmember Hardcastle
Councilmember Groberg
Councilmember Rose

Nay: None

Motion Carried.

A public hearing was conducted to consider the initial zoning of the newly annexed area. There being no discussion, it was moved by Councilmember Rose, seconded by Councilmember Eldredge, to establish the initial zoning of Blue Ridge Estates, Division No. 3 as R-1 (Single-Family Residential) as requested and, that the comprehensive plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning and amendment to the comprehensive plan on the comprehensive plan and zoning maps located in the Planning Office. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Rose
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

Councilmember Hardcastle requested Councilmember Rose to conduct a public hearing for consideration of a Conditional Use Permit for a restaurant (The Little Deli) on property located generally at 151 North Ridge Avenue (O. E. Bell Building), legally described as Lots 1 through 12, Block 36, Original Townsite. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
January 22, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: CONDITIONAL USE PERMIT – LOTS 1-12, BLOCK 36, ORIGINAL TOWNSITE (O. E. BELL)

Attached is the application for a Conditional Use Permit for The Little Deli, a restaurant, in the R3-A Zone under Section 7-6-2.E. and Section 7-7-2.A. of the City's Zoning Ordinance. As proposed, approximately 3,000 square feet of the lower level of the former O. E. Bell will be used for dining, catering, food preparation, and a conference room. Under Section 5-10.G., the Conditional Use Permit may not be transferred from The Little Deli or Hannah's Holdings

without Council approval. The Planning Commission reviewed this application

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at its December 14, 1999 Meeting and recommended approval. The Department concurs in this recommendation. The request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Planning and Building Director located the subject are 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 |
| Slide 2 | Aerial Photo Illustrating Land Uses in the Area |
| Slide 3 | Site Plan for O. E. Bell Building |
| Slide 4 | Section 7-6-2.E. of Zoning Ordinance |
| Slide 5 | Section 5-10.F. of Zoning Ordinance |
| Slide 6 | Floor Plan for The Little Deli – On Lower Level of O. E. Bell Building, with approximately 2,200 square feet being dedicated for The Little Deli and a Conference Room with 750 square feet (which can be used by The Little Deli restaurant, by the occupants of the building, or it can be leased out.) |
| Slide 7 | Photo of The Little Deli at its present location in North Eastern Avenue and Ash Street |
| Slide 8 | Looking northwest along Walnut Street, at the area that The Little Deli will be located |
| Slide 9 | Looking northwest from alley off of Walnut Street entrances |
| Slide 10 | Looking at homes across the street from the O. E. Bell Building |
| Slide 11 | Photo of intersection at Walnut Street and South Ridge Avenue |
| Slide 12 | Looking northeast along North Ridge Avenue from southeast corner of property |
| Exhibit 1 | Planning Commission Minutes from December 14, 1999 |
| Exhibit 2 | Staff Report |
| Exhibit 3 | Application |

The Planning and Building Director stated that if a Conditional Use Permit were to be granted for The Little Deli to be located in the O. E. Bell Building, it will be granted for that particular owner and for that particular use.

Councilmember Groberg commented that additional conditions that the City Council may want to impose on the Conditional Use Permit would have to be imposed with the motion. The Planning and Building Director stated that this is correct. The Planning Commission extensively discussed limiting the hours of operation, but due to the nature of the business, it was not made part of the recommendation.

Councilmember Rose requested the applicant to come forward to present any testimony regarding this Conditional Use Permit.

Diane Rigby, 4705 Hillcrest Drive, Boise, Idaho, appeared to state that she is the Managing Member for Hannah's Holdings. She requested that the City Council approve the request as recommended by the Planning Commission, including the limitations of contingencies so they might be able to utilize the facility to its utmost. She stated, further, that there will be little affect upon the neighborhood due to the nature of the business and the hours of operation of The Little Deli, as well as the use of the entrance off of the parking

lot for after-hours use of the conference facility. The neighborhood supports this request. Ms. Rigby stated that they have met all of the required conditions.

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Councilmember Lehto questioned what the intended hours of business were for The Little Deli. Ms. Rigby stated that the managers for The Little Deli are at work at approximately 4:00 a.m., with little night use of The Little Deli facility. If there is any after-hours use of the Conference Room facility, the parking lot entrance will be used.

Councilmember Rose questioned the adequacy of the parking in front of the building. Ms. Rigby stated that they have met the parking requirements, and have the variance for the parking requirements. They will limit the parking in the front of the building as much as possible. They have acquired the multi-family housing unit and the Jiffy Mart that are west of the building. They will be able to utilize those parking areas, also.

Councilmember Eldredge questioned whether Ms. Rigby intended not to have any business parking on the street in front of the building. Ms. Rigby stated that neighbors park on the street. They will try to keep the business parking on their side of the block. The Little Deli's business hours will limit the amount of traffic to the neighborhood. They will have lunch traffic and people stopping in to pick up food.

Councilmember Hardcastle stated that she has heard positive comments about this facility.

Councilmember Rose requested anyone who was in favor of or in opposition to this Conditional Use Permit request to come forward.

There being no one to appear in favor of or in opposition to this request, Councilmember Rose asked the Council for their comments and questions.

Councilmember Groberg questioned the City Attorney about the Conditional Use Permit being issued to a specific owner and a specific use and whether any change would require a new Conditional Use Permit. The City Attorney stated that if this particular owner makes any changes that go beyond those conditions approved and placed on the application by Council, a new Conditional Use Permit would have to be obtained. Councilmember Groberg questioned if the Council does not impose any restrictions on hours of business on The Little Deli, are there other City Ordinances that would prevent all-night activities at this facility. The City Attorney stated that the only other Ordinance that would apply under these circumstances, were if the business were being conducted as a nuisance. The City Attorney stated that there would be very little control.

Councilmember Eldredge was concerned that the later hours of business would become a nuisance to the neighborhood. He questioned the managers of The Little Deli as to whether it would be a hardship for them if a closing time were placed on the business.

Carol Messmer, 312 West 21st Street, appeared to state that it would be a hardship in terms of the banquet usage on the Conference Room. They do not intend to keep the public part of the building open in the evenings at all. That will cut down on the traffic through the residential area of the neighborhood. If they have functions at night, all traffic will go through the parking lot. The only reason that would stay open late would be to accommodate guests in the Conference Room facility. This would be for private parties only in the banquet area. Due to the nature of her business, it would not be necessary to set a time limit.

Diane Rigby re-appeared to explain that The Little Deli is not leasing the Conference Room facility. The Little Deli would have first right to serve any function that is held in the Conference Room. If they have a conflict, another restaurant may be catering a function. Ms. Rigby stated that The Little Deli could have an earlier time limit, but requested that the Conference Room facility be able to have a 1:00 a.m. time limit, due to the nature of the functions that might be planned.

Councilmember Eldredge questioned the City Attorney as to whether the Conditional Use Permit would apply only to the business requesting the Conditional Use Permit, or would it also apply to the Conference Room facility. The City Attorney stated that

the Conditional Use Permit would only apply to the business making application for the Conditional Use Permit.

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Pat Messmer, 312 West 21st Street, appeared to request the City Council to consider 10:00 p.m. as a closing time.

There being no further discussion, Mayor ProTem Hardcastle closed the public hearing.

It was moved by Councilmember Eldredge, seconded by Councilmember Rose, to grant the Conditional Use Permit for The Little Deli in the O. E. Bell Building, with the condition that it close to the public from 10:00 p.m. until 6:00 a.m. and would be allowed to host private banquets after 10:00 p.m. Roll call as follows:

Aye: Councilmember Hardcastle
 Councilmember Rose
 Councilmember Eldredge
 Councilmember Lehto
 Councilmember Groberg

Nay: None

Motion Carried.

Mayor ProTem Hardcastle requested Councilmember Rose to conduct a public hearing for consideration of a Land Use Change in the Planned Transitional Zone from residential use to professional office use (Help-U-Sell Realty), on property located generally at 1220 East 17th Street, legally described as Lots 1 and 2, Block 1, Edgemont Gardens. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
January 22, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: CONDITIONAL USE PERMIT – LOTS 1 AND 2, BLOCK 1,
 EDGEMONT GARDENS

Attached is the application for a Conditional Use Permit for a Land Use Change from residential to office on the above-described property located at 1220 East 17th Street. Help-U-Sell is proposing to remodel the existing home into an office building for the realty. The existing zoning is PT-2, which permits offices if a Conditional Use Permit is approved by the Planning Commission and City Council. The site plan has been reviewed by staff and complies with the PT provisions with the exception of lot size. The Planning Commission reviewed this site plan at its December 14, 1999 Meeting and recommended approval contingent upon the granting of a variance. The Board of Adjustment granted a variance as to lot size on December 21, 1999, after holding a public hearing. The Planning Department recommends approval since access points to 17th Street have been minimized under the existing circumstances. The request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

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The Assistant 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 for a Land Use Change from residential use to professional office use:

Slide 1	Vicinity Map
Slide 2	Aerial Photo
Slide 3	Site Plan
Slide 4	Newest Site Plan
Slide 5	Looking west from the northeast corner of property
Slide 6	Looking southwest from northeast corner of development
Exhibit 1	Planning Commission Minutes for December 14, 1999
Exhibit 2	Staff Report

The storm drainage for this area has been addressed by putting in a small retention pond. The land use which is changing from residential to a professional office building is an allowed use in the Subdivision Ordinance Section 7-18-3. The lot coverage for the PT-2 Zone is no greater than 70%, of which this is far under that percentage. The parking requirements have been calculated and have included the main floor and basement of the home and one other building. The access requirements have been met. This site plan is in accordance with the PT-2 Zone and the Zoning Regulations, except for the size of the lot which was approved by the Board of Adjustment.

Councilmember Rose requested the applicant or the applicant's representative to come forward at this time.

Chris Italiano, 575 First Street, appeared to request Council approval of this Conditional Use Permit for Land Use Change application. She stated that they would like to move their office to 17th Street for greater exposure. The highest and best use of this property is commercial, as commercial is all around this area. Ms. Italiano stated that they have complied with all City requirements.

Councilmember Rose questioned what the anticipated use of the building at the back portion of the lot would be. Ms. Italiano stated that the smallest building would be used as a storage building for signs. The middle-sized building would be used as another small professional office.

Councilmember Rose questioned the City Attorney as to whether the Conditional Use Permit would be affected if another professional office were to be located on this property. The City Attorney stated that as long as the applicant owns the property and the business is consistent with this Conditional Use Permit then it would be fine to continue. If the ownership of either property changes, then a new Conditional Use Permit would have to be applied for.

Councilmember Rose requested those in favor of this Conditional Use Permit application to come forward at this time.

Pete Italiano, 575 First Street, appeared to state that he is in charge of cleaning up this property. The property will become improved. They will remodel all three buildings. He requested the City Council to approve this application.

Janet Sanders, 575 East First Street, appeared to state that Help-U-Sell Realty is a small office. They have done a good business on First Street, but wanted to move to 17th Street to increase their business. The property will be improved. Many of the homes along 17th Street, from Holmes Avenue to St. Clair Road, have been converted to businesses. Ms. Sanders requested City Council approval of this application.

Councilmember Rose requested those in opposition to this Conditional Use Permit application to come forward at this time.

Arleen Coon, 3634 Wanda, appeared to state that she owns the Century 21 Greater Landco Realty office to the east of the property under consideration. She submitted the following exhibits in connection with this Conditional Use Permit for Land Use Change:

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Exhibit 1:

**PROPOSED ZONING AND LAND USE CHANGE FOR
1220 EAST 17TH STREET**

I don't believe approval here is in accordance with the Comprehensive City Plan.

#1. It does not promote an orderly development and creates an over-crowding of land. Land use minimum required is 30,000 square feet. This lot is 19,675 square feet. Less than 2/3 of required 30,000. The lot is small and it's hard to visualize the proposed parking on the proposed plan. I feel our parking lot and driveway will be used because of poor access and an over-crowded lot.

#2. I feel the building does not conform to the type and quality of commercial properties in the area and is not compatible with other businesses or compatible with the Comprehensive City Plan to promote protecting property values.

#3. The access is located at the start of a left turning lane into Ponderosa Street. There are also cars directly across the street on Juniper entering 17th Street. I can see a lot of congestion – creating more of a hazard to an already congested area. The public street of the proposed development cannot safely accommodate the additional traffic it will generate.

#4. Approval of this would set precedence for many other similar properties to also request zoning and land use changes.

Exhibit 2 Photo taken Monday, January 24, 2000 of City of Idaho Falls
Pickups and Intermountain Gas Pickup

Exhibit 3 Copy of portion of Plat highlighting applicant's property

Councilmember Eldredge questioned Ms. Coon as to whether there was any barrier between her parking lot and the applicant's property. Ms. Coon stated that there is no barrier. Councilmember Eldredge questioned whether a barrier, such a fence could be put in. Ms. Coon stated that if this Conditional Use Permit is approved, then a fence should definitely be put in.

Ed Bloxham, 1248 East 17th Street, appeared to state that the City of Idaho Falls has a requirement for 30,000 square feet under the PT-2 Zone. He stated that if this property changed to commercial, that it would have to comply with those guidelines. When he is trying to sell properties in the PT zone, he makes the sellers aware of that guideline, which negates the value of the property. Mr. Bloxham expressed his concern over 3 accesses onto 17th Street within 100 feet of each other. He stated that if this Conditional Use Permit is approved then his property will be devalued and there should not be that many curb cuts on 17th Street.

Councilmember Eldredge questioned Mr. Bloxham as to whether he addressed any of these concerns with the Board of Adjustment. Mr. Bloxham stated that he did address these issues. He cited the Tall Family Dentistry as an example of having to purchase more property to have enough square footage for an office.

Karen Abbott, 250 10th Street, appeared to state that she is a realtor. She stated that she does not have any problems with Help-U-Sell Realty being next door to Century 21 Realty. She stated that realtors use their cars as an extension of their office. Ms. Abbott expressed her concerns over the limited amount of parking that would be available at

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Help-U-Sell Realty. She expressed her concern for where the Sanitation trucks, UPS trucks, and other delivery trucks will turn around.

Chris Italiano re-appeared to explain the reason for the City trucks and the Intermountain Gas truck being at this location on the day of the photo. She stated that all utilities were coordinated to locate their lines for the site plan. She commented that due to the fact that the parking lot for Help-U-Sell is not currently in, she assumed that is why the utility trucks pulled into the closest parking lot to be able to make those locations. She apologized for the trucks being in the Century 21 parking lot. Ms. Italiano has planned the parking requirements with the Planning and Building Division to comply with regulations. She stated that the PT Zone requires 30% landscaping. With their plan, they currently have 61% landscaping on their property. If there is a parking problem in the future, they can convert some of the landscaped area into parking if needed. Ms. Italiano stated that the City has required that the garbage be taken to the street, so that there will not be dumpsters on their property. She stated that currently, there is a concrete abutment between the two properties that acts as a barrier. Ms. Italiano stated that a precedent has already been set, as Tall Family Dentistry received approval for their business. Even with the purchase of the additional lot, they still did not meet the 30,000 square foot requirement in the PT zone. Ms. Italiano again reviewed for Council the parking requirements for her business.

The Assistant Planning and Building Director re-appeared to answer questions.

Councilmember Lehto requested to know how this development fits into the Comprehensive Plan. The Assistant Planning and Building Director explained that this takes a residential single-family home off of 17th Street in an area that is commercial in nature. Councilmember Lehto questioned where the nearest single-family residential property is located. The Assistant Planning and Building Director stated that the nearest residential dwelling is located to the south of the property under consideration. Councilmember Lehto questioned whether that resident has voiced any concern over having a business like this located next to them. The Assistant Planning and Building Director stated that the only concern raised was whether a fence would be constructed between the business and their residential property. He explained, further, that under the requirements of the PT Zone, a fence is required to be installed. Help-U-Sell will be building a cinder block fence between their business and the single-family residence. Councilmember Lehto requested to know what the situation was with regard to the Tall Family Dentistry situation. The Planning and Building Director appeared to state that Tall Family Dentistry is located on the corner of 17th Street and Austin Street and was originally zoned PT. The Talls requested their lot to be rezoned to PB, which was done. At one point, the Talls wanted to expand their offices. They made a request with a PT application to remove the single-family home at the rear of their property so that they might build a new facility for their dental office. This has not been done. The Planning and Building Director stated that the Planned Transition Zone is to bring 17th Street from residential to commercial. The 30,000 square foot lot minimum was required for two reasons: 1) to eliminate access points to the arterial; and, 2) to encourage single-family homes to not convert individually, but for an applicant to purchase several homes to convert to a commercial site. The unique issue with the site for Help-U-Sell is that the lot to the east is commercial and the lot to the west is commercial. This makes it more difficult to acquire more than the 19,000 square feet that is on the site.

Arleen Coon re-appeared to explain her understanding of what occurred with Tall Family Dentistry.

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

Councilmember Groberg explained that the issues brought forward by the neighbors are all pertinent and relate to the many issues and the difficulty in working with the PT-2 Zone. This particular location is unique due to the fact that professional offices are

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on both sides of this property. The applicant made an effort to join with the property owners on the west side of their property, but were unable to reach agreement.

There being no further discussion, it was moved by Councilmember Rose, seconded by Councilmember Eldredge, to grant the Conditional Use Permit for the Land Use Change on Lots 1 and 2, Block 1, Edgemont Gardens, since the Site Plan meets the performance standards of Section 7-18-4 with the exception of lot size for which the Board of Adjustment granted a variance from 7-18-4.C.1. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Rose
Councilmember Eldredge
Councilmember Groberg

Nay: Councilmember Lehto

Motion Carried.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to recess the public hearing for determination whether a final plat application complies with the provisions of Title 10, Chapter 1, of the Idaho Falls City Code on Teton Apartments Subdivision, Division No. 1, located generally west of Woodruff Avenue, east of St. Clair Road, and south of 25th Street, to the end of the Council Agenda. Roll call as follows:

Aye: Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Hardcastle
Councilmember Groberg

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls
January 24, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: CHARGE OFF – UNPAID UTILITY ACCOUNTS 1995

Municipal Services respectfully requests authorization to charge off as uncollectable, all utility accounts that have not had a transaction since 1995, which includes, but not limited to, bankruptcies, skips, deceased persons, and those with no assets. These accounts total \$194,717.91, which is .45% of sales for that year.

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It is further requested that authorization be given to charge off the following accounts as uncollectable: Ambulance, \$421,562.65; Accounts Receivable, \$2,355.00; and, Returned Checks, \$635.86.

s/ S. Craig Lords

It was moved by Councilmember Eldredge, seconded by Councilmember Lehto, to charge off unpaid accounts for 1995. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Rose
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls
January 18, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, CLP, Parks and Recreation Director
SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES FOR ITD #7624 JOHNS HOLE BRIDGE WIDENING PROJECT

Attached is a Professional Services Contract between the City of Idaho Falls and W & H Pacific, Inc. of Boise, Idaho for the purpose of providing engineering services for the Johns Hole Bridge widening project. Cost for services performed will be \$64,131.00. The Idaho Transportation Board has approved 80% funding of the project. The project will provide for widening the existing Johns Hole Bridge walkway from 4' to 10'. The Idaho Falls Redevelopment Agency has also allocated \$90,000.00 towards the cost of the project. The City Engineer and City Attorney have reviewed the Agreement. It is, therefore, being submitted for your approval and to have the Mayor and City Clerk execute.

s/ David J. Christiansen

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Professional Services Agreement with W & H Pacific, Inc. to provide engineering services for the Johns Hole Bridge Widening Project and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle

Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

JANUARY 27, 2000

Councilmember Rose

Nay: None

Motion Carried.

City of Idaho Falls
January 25, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, CLP, Parks and Recreation Director
SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES FOR ITD #7667 - U.S. #20/FREMONT AVENUE PATHWAY AND LANDSCAPING PROJECT

Attached is a Professional Service Contract between the City of Idaho Falls and W & H Pacific, Inc. of Boise, Idaho for the purpose of providing engineering services for the U.S. #20/Fremont Avenue Pathway and Landscaping Project. Cost of services performed will be \$35,808.00. The Idaho Transportation Board has approved 80% funding of this project. The project will provide for a pedestrian pathway from the existing Johns Hole Bridge pathway to Freeman Park and landscaping of the entire interchange at U.S. #20/Fremont Avenue. The City Engineer and City Attorney have reviewed the Agreement. It is, therefore, being submitted for your approval and to have the Mayor and City Clerk execute said Agreement.

s/ David J. Christiansen

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Professional Services Agreement with W & H Pacific, Inc. to provide engineering services for U.S. #20/Fremont Avenue Pathway and Landscaping Project and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Rose
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls
January 24, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: David J. Christiansen, CLP, Parks and Recreation Director

SUBJECT: PROFESSIONAL SERVICES AGREEMENT/YARGER ASSOCIATES,
INC./PHASES II AND III RECREATION CENTER FEASIBILITY
STUDY

JANUARY 27, 2000

Attached for your consideration is a Professional Services Agreement between the City of Idaho Falls and Yarger Associates, Inc., Saint Louis, Missouri for the purpose of conducting Phases II and III of the Recreation Center Feasibility Study. Phase I of the study was concluded in December. The findings in Phase I was presented to the Mayor and City Council in a work session. The Parks and Recreation Commission, at their January 10th Meeting, reviewed the findings of Phase I. Attached is a letter of recommendation from the Parks and Recreation Commission supporting the continuation of the feasibility study. The City Attorney has reviewed the Agreement. It is, therefore, submitted for your approval.

s/ David J. Christiansen

The Parks and Recreation Director appeared to state that the costs involved in Phases II and III of the Recreation Feasibility Study will range from \$13,500.00 to approximately \$25,000.00, depending on which additional options are requested.

There being no further discussion, it was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Professional Services Agreement with Yarger Associates, Inc. to conduct Phase II and Phase III of the Recreation Center Feasibility Study and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
 Councilmember Rose
 Councilmember Eldredge
 Councilmember Lehto
 Councilmember Groberg

Nay: None

Motion Carried.

The Planning and Building Director submitted the following memos:

City of Idaho Falls
January 23, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: N. S. I. BUSINESS PARK, DIVISION NO. 1

Attached is the request for extension of the recording date for the Final Plat of N. S. I. Business Park, Division No. 1. Under Section 10-1-17(E) of the Subdivision Ordinance, a Final Plat is to be recorded within 90 days of the approval of the City Council unless the Council grants an extension. The Planning Department recommends an extension of 90 days be granted. This request is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

JANUARY 27, 2000

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the request for extension of 90 days for the recording of the Final Plat of N. S. I. Business Park, Division No. 1. Roll call as follows:

Aye: Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Hardcastle
Councilmember Groberg

Nay: None

Motion Carried.

City of Idaho Falls
January 23, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: SECOND AMENDED PLAT OF ROSE NIELSEN ADDITION,
DIVISION NO. 109

Attached is the Final Plat for the above-described property, which is located immediately west and adjacent to Hitt Road north of Sunnyside Road. This replat divides one 1.61-acre lot into two commercial lots. The property is within the City and is zoned C-1. The Planning Commission reviewed this plat at its December 14, 1999 Meeting and recommended approval. The Planning Department concurs with this recommendation. The request for approval of the Final Plat is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to approve the Second Amended Plat for Rose Nielsen Addition, Division No. 109 and, further, give authorization for the Mayor, City Engineer, and City Clerk to sign said Plat. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Eldredge
Councilmember Hardcastle
Councilmember Groberg
Councilmember Rose

Nay: None

Motion Carried.

The Public Works Director submitted the following memos:

JANUARY 27, 2000

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: CH2M HILL ENGINEERING SERVICES AGREEMENT – TASK
ORDER NO. 10, SEWAGE SCREENING IMPROVEMENTS, FINAL
DESIGN

Attached is Task Order No. 10 to the Engineering Services Agreement with CH2M Hill. This Task Order provides for final design of raw sewage screening improvements at the Idaho Falls Water Pollution Control Plant. The cost of these services as described in the Task Order is estimated at, but not to exceed, \$275,000.00.

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

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve Task Order No. 10 to the Engineering Services Agreement with CH2M Hill and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto
Councilmember Rose
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOT 4, BLOCK 1, RIDGEWOOD PARK
ADDITION, DIVISION NO. 1

Public Works requests authorization for the City Attorney to prepare documents needed to vacate an easement located in Lot 4, Block 1, Ridgewood Park Addition, Division No. 1.

s/ Chad Stanger

JANUARY 27, 2000

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare the necessary documents to vacate an easement in Lot 4, Block 1, Ridgewood Park Addition, Division No. 1. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg
Councilmember Rose

Nay: None

Motion Carried.

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: EASEMENT VACATION – LOTS 14, 15, 16, 17, 18, AND 19,
BLOCK 17, EASTVIEW ADDITION, DIVISION NO. 3

Public Works requests authorization for the City Attorney to prepare the documents needed to vacate an easement located in Lots 14, 15, 16, 17, 18, and 19, Block 17, Eastview Addition, Division No. 3.

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to give authorization for the City Attorney to prepare the necessary documents to vacate an easement in Lots 14, 15, 16, 17, 18, and 19, Block 17, Eastview Addition, Division No. 3. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Rose
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Lehto

Nay: None

Motion Carried.

City of Idaho Falls
January 21, 2000

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Chad Stanger, Public Works Director
SUBJECT: POULSON STREET RIGHT-OF-WAY

JANUARY 27, 2000

Attached are documents which, if approved, will allow the City to reclaim a portion of Poulson Street right-of-way previously vacated by the City to Union Pacific Railroad and Jack Thomas Grain. Reclamation of this right-of-way would resolve title and access issues to adjacent properties.

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

s/ Chad Stanger

It was moved by Councilmember Lehto, seconded by Councilmember Groberg, to approve the Right-of-Way Agreement to reclaim a portion of Poulson Street right-of-way and, further, give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Groberg

Nay: None

Motion Carried.

It was moved by Councilmember Rose, seconded by Councilmember Eldredge, to recess the remainder of this meeting and reconvene at the Civic Auditorium, 501 South Holmes Avenue, at 9:20 p.m., January 27, 2000. Roll call as follows:

Aye: Councilmember Rose
Councilmember Eldredge
Councilmember Lehto
Councilmember Hardcastle
Councilmember Groberg

Nay: None

Motion Carried.

Upon arrival and set-up at the Civic Auditorium, 501 South Holmes Avenue, Mayor ProTem Hardcastle reconvened the Regular Meeting of the City Council of the City of Idaho Falls at 9:20 p.m. Mayor ProTem Hardcastle announced that a motion was made at the regularly scheduled meeting to recess the public hearing for determination whether a final plat application complies with the provisions of Title 10, Chapter 1, of the Idaho Falls City Code on Teton Apartments Subdivision, Division No. 1, located generally west of Woodruff Avenue, east of St. Clair Road, and south of 25th Street. At the request of Mayor ProTem Hardcastle, the City Clerk called the roll as follows:

There were present:

Mayor ProTem Ida Hardcastle
Councilmember Michael Lehto
Councilmember Brad Eldredge

JANUARY 27, 2000

Councilmember Joe Groberg
Councilmember Bruce Rose

Absent was:

Mayor Linda Milam
Councilmember Beverly Branson

Also present:

Dale Storer, City Attorney
Ryan Armbruster, City Attorney (Special Counsel)
Rosemarie Anderson, City Clerk
All available Division Directors

Mayor ProTem Hardcastle announced that a notice has been posted at the Council Chambers at 140 South Capital Avenue advising of the change in meeting place for the purpose of this hearing. There is also a City employee there to further inform interested persons of the change.

Dale Storer, City Attorney, appeared to state that he has made the City Council aware that he has a potential conflict of interest under the Idaho Ethics in Government Statute and also under the Idaho Local Planning Act. While he does not believe that it is a conflict of interest, in order to avoid any appearance of same, he requested that the City Council excuse him from participating in the hearing.

Mayor ProTem Hardcastle invited Ryan Armbruster, Special Counsel for the City of Idaho Falls to join the Council at the Council Table.

Mayor ProTem Hardcastle stated, that as an initial matter, on January 20, 2000 a Petition was filed before the City Council on behalf of the opponents of the Teton Apartments, seeking among other things, remand of this matter to the Planning Commission. This Petition was forwarded to Special Counsel Ryan Armbruster for a legal opinion on how the Petition should be handled. Mr. Armbruster opined, based upon the Subdivision Ordinance, pertinent State Law, and the Memorandum Decision and Order entered by Judge St. Clair on January 19, 2000, that the issue of remand to the Planning Commission is necessarily included within the issue of the Final Plat application's compliance within the Subdivision Ordinance. In accordance with Judge St. Clair's Order, the Council will conduct a public hearing to take testimony and evidence on whether the Teton Apartments Subdivision, Division No. 1 Final Plat application complies with the Subdivision Ordinance. Mayor ProTem Hardcastle explained for everyone present, the procedures to be followed to conduct the public hearing. Before the public hearing begins, Mayor ProTem Hardcastle will pass the matter to the Chair of the Planning and Zoning Council Committee, Councilmember Bruce Rose to conduct the public hearing. Then, the Council will initially hear and take evidence from the Planning Director Renée R. Magee, regarding the City Staff's recommendations on the Final Plat application, as well as answer any questions from the Councilmembers. Following the Planning Director, a representative of the applicant, Teton Apartment Associates, will have the opportunity to present evidence of compliance with the Subdivision Ordinance and to answer questions from the Councilmembers. After the developer has made his presentation, interested citizens will have the opportunity to present evidence to the Council. Mayor ProTem Hardcastle requested those presenting testimony and evidence to 1) state name and address for the record; 2) indicate whom they represent; 3) do not duplicate testimony or evidence that has already been offered; 4) limit testimony to

relevant evidence of compliance or non-compliance with the Subdivision Ordinance; 5) limit testimony to 5 minutes each; and, 6) several letters have been received from interested citizens regarding the Teton Apartments. If any authors of letters are present to testify, there

JANUARY 27, 2000

is no need to duplicate with testimony, what was said in the letters. The letters are part of the record and need not be repeated. Interested citizens wishing to present evidence or testimony regarding the Plat application's compliance with the Subdivision Ordinance will be allowed to address the Council first. Interested citizens wishing to present evidence and testimony regarding the Plat application's non-compliance with the Subdivision Ordinance will then address the Council. Once all interested citizens have made their presentation, the applicant's representative will have the opportunity to rebut the evidence or testimony raised by the public testimony, as well as answer any questions from the Councilmembers. Once the applicant's representative is finished, the petitioner who sought this hearing, will have the opportunity to have a representative of their group present surrebuttal evidence or testimony on the issues raised by the applicant's representative on rebuttal. No new information will be allowed, only that which relates to issues raised by the developer's rebuttal. Once the petitioners have had the opportunity to present surrebuttal, the public hearing will be closed and the matter brought back before the Council. Once the matter is before the Council, the Council will decide, based upon the evidence submitted, whether the Final Plat application complies with the Subdivision Ordinance. If the Council determines that the Final Plat complies with the Subdivision Ordinance, the Plat will be approved. If the Council determines that the Final Plat does not comply with the Subdivision Ordinance, the Council is required to notify the applicant of the deficiencies and the actions required in order to obtain approval. Depending on the deficiencies, it may be necessary for the Council to remand the application to the Planning Commission to correct the defect, depending on what the defect is and what is required in order to fix it. In summary, because the Teton Apartments Final Plat application compliance with the Subdivision Ordinance is properly before the Council this evening, the issue of remand to the Planning Commission is likewise before the Council. No separate agenda item is necessary to entertain the issue of remand. This is in compliance with Judge St. Clair's decision remanding this matter to the City Council, and the Council has jurisdiction to decide this matter.

Mayor ProTem Hardcastle stated that she has received letters concerning this public hearing from interested citizens. Early on, she destroyed them or returned them to sender without reading them. Later on, they were forwarded to the City Clerk for inclusion in the record. Further, she received telephone calls regarding this issue, and to the best of her ability, explained that this matter could not be discussed and why it could not be discussed outside of the public hearing. Councilmember Groberg stated that he has received much of the same correspondence. Some of the earlier correspondence, he did read.

Mayor ProTem Hardcastle turned the remainder of the public hearing over to the charge of Councilmember Bruce Rose. At the request of Councilmember Rose, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
January 23, 2000

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: TETON APARTMENTS, DIVISION NO. 1

Attached is the Development Agreement and the Final Plat for Teton Apartments, Division No. 1. This one-lot plat consisting of 10.06 acres is

annexed and zoned R-3, multi-family residential. It is located north of the intersection of St. Clair Road and Woodruff Avenue. The Planning Commission

JANUARY 27, 2000

considered this plat at its May 11, 1999 Meeting and recommended approval with the stipulation the wording "No Access to Woodruff Avenue" be placed on the plat. The Planning Department concurs in the recommendation. This Final Plat and Development Agreement are now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

Councilmember Rose requested the Planning and Building Director to come forward to make her presentation. The Planning and Building Director requested the following letters submitted from interested citizens for inclusion in the record:

Documents submitted from Dr. and Mrs. Roger Tall to Mayor and all Councilmembers:

- a. Copy of letter dated January 7, 2000 addressed to "Property Owner" from Renée R. Magee, Planning and Building Director regarding notification of public hearing.
- b. Copy of letter dated February 9, 1998 addressed to Kenneth L. Koss, American Property Development, Inc. from Mayor Linda Milam regarding the proposed Teton Apartments.
- c. Copy of Page 96 from the June 10, 1999 City Council Minutes containing comments regarding Teton Apartments development.
- d. Copy of Page 11 from Memorandum Decision regarding application information requirements.
- e. Copy of a portion of the May 27, 1999 Final Plat (Owner's Certificate and Acknowledgement) from Teton Apartments Associates, LLC, with Mountain River Engineering as Engineers.
- f. Copy of a portion of the April 26, 1999 Final Plat (Owner's Certificate and Acknowledgement) from Teton Apartments Limited Partnership, with Mountain River Engineering as Engineers.
- g. Copy of a portion of the Final Plat (Owner's Certificate and Acknowledgement dated June 2, 1999) for Teton Apartments Subdivision, Division No. 1, with Mountain River Engineering as Engineers.
- h. Copy of an Advertisement produced by Idaho Newspaper Foundation, with the headline "Government Watchdog Wanted - \$1,000.00 Reward).
- i. Copy of a letter dated January 10, 2000 addressed to G. Lance Nalder regarding "Olson, et al. v. City of Idaho Falls - Remand to City Council" from Kevin E. Dinius with Elam and Burke, A Professional Association.

Three (3) identical letters from James L. Richards, M.D., each addressed as follows:

January 5, 2000

Brad Eldredge
City Council Member
1111 Caysie Lane

Idaho Falls, Idaho 83402

JANUARY 27, 2000

Mike Lehto
City Council Member
3738 Cobblestone Lane
Idaho Falls, Idaho 83404

Bruce Rose
City Council Member
308 Constitution Way
Idaho Falls, Idaho 83402

RE: Teton Apartments

Dear Mr. Eldredge, Mr. Lehto, or Mr. Rose (respectively):

Enclosed is a note which I have sent to my friend Joe Groberg who serves with you on our city council. Although I do not personally know you and consider myself a lesser person because of it, I do have opinions about the development across the street that has caused so much controversy. I am motivated to share these concerns with you and appeal to your sense of reason to act appropriately as one of your broader constituency. In addition to the points shared with Joe, I would add the following items for your consideration.

1. In my opinion the creation of a city government is for the protection of the lives and property of its citizens. The proposed project currently under construction using an illegal building permit accomplishes neither of these goals. The assessor has conceded that homes in the area will be reduced in value to 10-30% of current valuation. My home is currently valued at \$330,000.00. You can easily calculate my personal loss if you allow this project to continue.
2. Can you claim any greater moral high ground than for a community of friends and neighbors to rise up in protest in order to protect and preserve the rights, life, and enjoyment of family and home? Please don't sicken my heart with any claim to a greater good potentially created by this particular project! Just consider for a moment your actions if it were being constructed across the street from your home.
3. There is better use for this land which will enhance and enrich the community.
4. Why is this project controversial? Who are the proponents for this project? Who is opposed? The answers to these simple questions should give you the courage needed to overrule the mayor as this issue is appropriately resolved.

Thank you for your
consideration,

s/ James L. Richards
James L. Richards, M. D.

Personal handwritten note on Councilmember Brad Eldredge's letter:

I'm sorry about the gag rule. I'm sure that it doesn't represent your ideals expressed in your most recent election campaign. What is representative democracy coming to??

JANUARY 27, 2000

Personal handwritten note on Councilmember Mike Lehto's letter:

I voted for you. I felt your desires and campaign claims were meaningful and reflected my views. The gag rule you guys are under is an atrocity in representative government. Please see through the evil designs of Mayor Milam and vote for your constituents.

Personal handwritten note on Councilmember Bruce Rose's letter:

I'm really disappointed in the gag rule imposed on my representative in City government. I cannot help but consider that this is contrary to any politicians campaign promises. Maybe the Mayor will learn something in Russia!

Attachment to above letter:

January 4, 2000

To Councilman Joseph Groberg

Re: Teton Apartments

Dear Joe,

Recent events relating to the neighborhood legal action brought against the city for its apparent irregularities allowing the above project to proceed have prompted my writing to you at this time. You may recall our phone conversation earlier this year when I had opportunity to share my views with you on this matter. Joe, you are the only member of city council whom I know personally and whom I have actively supported for election. Through you in a representative democracy my voice can be heard and I respectfully request that you give me the satisfaction of listening. The following points which are made in this note are issues which may be discussed in person in the future.

1. I concede that you personally and other members of the city council acted in good faith out of a perception that no other option was available when this project was approved. Unfortunately I cannot allow the same concession with respect to the mayor, who in my opinion has conspired to circumvent the normal legal procedural processes in favor of her own agenda.
2. I am shocked and disappointed that you could even consider allowing the second largest subsidized low-income housing project in the state of Idaho to be constructed in the middle of a neighborhood of single-family homes. Yet by your own admission, you considered only the bike path around or through the project! Why, why, why didn't you inform your constituency?
3. I believe that an elected official has an obligation to represent the views of his constituents especially as it relates to political issues. There are rare circumstances when a moral issue arises that an elected official may choose to vote his conscience, and when this is done and is contrary to the mandate of the constituency he should have the courage to declare

that this was a vote of conscience. Joe, in the most remote reaches of my wildest imaginings, I cannot consider the approval of the Teton Apartments a moral statement of any type. The issue is political and you

JANUARY 27, 2000

as an elected representative must vote as your constituency directs or face the consequences of such a blatant contrary action.

4. Whatever view you may have held previous to the ruling of the court, now you must look again at this issue without the clouded vision of prior prejudice.
5. Others have told me that you have great respect for the law and for proper following of policies and procedures, and that this is an overriding personal concern of yours. As a lawyer you are familiar with the local land use planning act which was the legal basis for the recent ruling. There is little wiggle room for the city council's action in its behavior when compared to the legal standard of the LLUPA.

Joe, you have an unprecedented opportunity to make a serious wrong right. As a supportive constituent and friend, I beg you to have the courage to act properly on behalf of those who have entrusted you with your current office and do not allow for the continuation of Teton apartments.

Sincerely,

s/ Jim Richards
Jim Richards

Personal handwritten note to Councilmember Groberg:

Joe,
I have read the above and agree with Jim.

s/ Kris Richards

Joe,
Do what my dad says.

s/ Heidi Richards

January 9, 2000

Idaho Falls City Clerk
140 South Capital
Idaho Falls, Idaho 83402

To Whom It May Concern:

We would like to request that this letter to the City Council be entered into the public record.

As we see yet another ad by EIRMC in the Post Register today, it makes us feel compelled to write to the Mayor and City Council to share a few concerns.

Over fifteen years ago, when the hospital was built, the Rose Nielsen neighborhood worked together with the hospital to see that Channing was the main access rather than Hoopes so that it would minimize the impact on our

RP-A zoned neighborhood. Despite this accommodation, there has been an impact in our area with increased traffic and noise (helicopters, shift changes,

JANUARY 27, 2000

mechanical noise both maintenance and operational). With the upcoming hospital expansion, we anticipate this to increase still more.

Now with the building of the Teton Apartments, it has put our subdivision in a vice. The traffic is incredible on Channing and it has become most difficult to exit from 25th or Coronado onto this street at any time, day or night. Traffic has also increased on Woodruff, Coronado, as well as on 25th Street. The placement of such high density housing into this area, regardless of prior zoning, is going to make an already bad traffic situation, worse.

This traffic issue is but one of the concerns we have as we watch the Teton Apartment complex go up down the street. It is unfortunate that the Mayor and the City Council would not allow our concerns to be heard before giving the go-ahead to a project such as this. It is still not too late to listen and act to help us resolve these issues that will have a major impact upon the residents and our city.

Sincerely,

Chip and Louise Krantz
2811 Glenwood Drive
Idaho Falls, Idaho 83404

Two (2) identical letters from Richard K. Hanks sent to each of the Idaho Falls City Councilmembers:

To Joe Groberg and the Idaho Falls City Council.
January 14, 2000
Re: Teton Apartments

I find the course of events regarding the City's action approving the Teton Apartment complex disconcerting and alarming. I have known and respected you since our high school days on opposing debate teams. I would have expected that as an attorney and a developer these issues would have been of a heightened concern to you.

- To allow a very large apartment complex that will materially alter the nature of the neighborhoods it borders is a significant action by the City. Not only will this complex affect the nature of the neighborhoods, it seriously affects already crowded south side schools, impacts even now severely jammed traffic arterials, alters property values and shifts tax burdens. For the City to approve this project without so much as a notice to the people affected is a serious breach of trust. To hide behind a legal opinion of the City Attorney that such a notice is unnecessary is unconscionable. The result: there is no public discussion of the merits of this project.
- When citizens of the neighborhood finally learned of the City's approval through a newspaper article, we attended a City Council meeting to register concern. But we were told this was all fait accompli and there

was nothing we could do about it – we had missed our opportunity to have any input. The result: there is no public discussion of the merits of this project.

JANUARY 27, 2000

- When a district judge ruled that, in fact, we were entitled to a public hearing, the City's attorneys announced that we could not talk or petition our city councilmen as it would "taint" their coming consideration of this matter. The result: there is no public discussion of the merits of this project.

When the announcement of the time and day of the public hearing was made, the mayor and her legal counsel declared that any comments would be limited to the question of whether the City had complied with Title 10, Chapter 1 of the Idaho Falls Code. Our discussion, therefore, would be limited to the question of whether or not the final plat of this development complies with the subdivision code. In other words, if I follow the city's instruction correctly, there will be no discussion of the merits – or lack thereof – of the project. The result: there is no public discussion of the merits of this project.

These matters are very troubling to me. The device of "procedure" is used at every turn, when convenient to the City, to circumscribe and control the legitimate expression of concern by the neighborhoods. Yet despite this apparent fondness for "procedure" over "substance", the neighbors' procedural right to be heard, clearly established by statute, was ignored when it became inconvenient. Now, having been informed by the court that the City's development approval was invalid and contrary to law, the City steadfastly denies that the court said what it said. Of course all of this frivolous legal posturing is done at taxpayer expense.

Is this what the American tradition of "town meetings" has come to? If we are only able to discuss circumscribed legal issues, then that suggests they have to be resolved through litigation. I think it is far better to have an open and free exchange between citizens and their elected representatives. All of this likely would have been avoided had the neighbors simply been given their hearing as required by law. The City's odd behavior in going to such absurd lengths to avoid such a relatively small matter suggests that more is going on under the surface than meets the eye. I hope there is not. That the City's leaders and legal counselors have allowed us to come to this crossing is ill conceived and outrageous!

s/ Richard K. Hanks
Richard K. Hanks
2633 Glenwood Drive

Three (3) identical letters from Sharon Paradis-Norman, addressed to Councilman Lehto, Councilman Rose, and Councilman Groberg:

January 6, 2000

Dear Councilman Lehto, Councilman Rose, and Councilman Groberg (respectively):

I am very concerned about the Teton Apartment Complex! There is a likelihood that an additional 250-300 children will be added to the school district; will

more children be shuffled again? In a 157 units, at 2 cars per unit, 314 vehicles will flood the surrounding streets.

JANUARY 27, 2000

I don't believe a low income property will be kept up, what incentive is there? A waiting list of applicants for below market rent will keep it full. As I drive around the city none of the rental apartment buildings I see are in good repair, I don't believe this will be an exception.

There are many uses for that land that would be appropriate such as townhouses as on 25th Street, an extension of the Legends project to the north, a low-density condo community like the Fountains, even a retirement home.

As a last resort change the requirements.

I understand the low income senior apartments near 12th and Woodruff were filled immediately, requiring a senior occupancy would be a solution to the problem of school children and would cut down the number of vehicles by half.

You will soon have a chance to reconsider and vote again; since you now are aware you have an option, I strongly urge you to show the community you are open to their concerns.

Sincerely,

s/Sharon Paradis-Norman
Sharon Paradis-Norman
2468 Belmont Avenue
Idaho Falls, Idaho 83404

January 14, 2000

City of Idaho Falls
Planning and Building Division
Idaho Falls, Idaho 83405-0220

Dear R. Magee,

This is a follow up letter to my phone call January 13th. I am concerned that I cannot voice my opinion on the Teton Apartment Complex. I have written the members of the City Council and have had the letters returned unread. I now am concerned that I may not be able to voice my opinion at the hearing on January 27th because the council chambers do not seat enough people.

I urge that a larger facility be found to accommodate that hearing.

Sincerely,

s/Sharon Paradis-Norman
Sharon Paradis-Norman
2468 Belmont Avenue
83404

Four (4) identical letters from Roger and Sondra Black, addressed to Councilmember Eldredge, Councilmember Rose, Councilmember Groberg, and Councilmember Lehto:

JANUARY 27, 2000

January 16, 2000

Brad Eldredge
1111 Caysie Lane
Idaho Falls, Idaho 83402

Bruce Rose
409 Ruth
Idaho Falls, Idaho 83404

Joe Groberg
1269 Homer Avenue
Idaho Falls, Idaho 83404

Mike Lehto
3738 Cobblestone Lane
Idaho Falls, Idaho 83404

My only request is that you look carefully at what is being built in my front yard and ask yourself if you would be angry if this were your property.

The Final Plat map sent to us by the City Clerk is a painful reminder that this apartment complex is out of place.

Thank you,

s/ Roger Black
s/ Sondra Black
Roger and Sondra Black
1683 Laguna Drive
Idaho Falls, Idaho 83404
523-8083

Four (4) identical letters from Brian J. Stutzman, addressed to Councilmember Eldredge, Councilmember Lehto, Councilmember Rose, and Councilmember Groberg:

January 7, 2000

Dear Brad Eldredge, Mike Lehto, Bruce Rose, and Joe Groberg (respectively):

I live on Disney Drive here in Idaho Falls and I am asking for your help. I am quite concerned with the Teton Apartment project, just a few blocks away from my home. I understand that the building permit they are using is illegal, yet the city allows the workers to continue to build. If I were building illegally, wouldn't somebody on the city come close my project down?

Would you, as my elected official, help us do something here, such as:

1. Ask the appropriate departments in the city to halt construction until the permit issues can be worked out?

2. How about hold some sort of hearing. Now I know there is some debate on whether the city has to or should have held a hearing. I am not talking about that hearing. Wouldn't it be just good government to have

JANUARY 27, 2000

some sort of meeting with the area residents? Any good campaigner, who wants to capture the support of potential voters normally has some sort of neighborhood meetings. Even if you did this solo, just as a fact finding meeting, wouldn't that be good government?

3. Come out publicly in supporting open government, and take the lead in helping the city come to some middle ground with those of us who have concerns about this project. We have heard very little from the council on this matter. While you might not have the position to give us immediate remedy, certainly your leadership and voice on the side of the citizens would be welcomed!

I would ask you to put yourself in my place. I, as well as many of my neighbors, are feeling the city, and our elected mayor, is stone walling us and refusing to even talk to us. Worse, we hired her to look after our best interests, not fight us every step of the way. It took a lawsuit and a Judge to get the city to even talk about the legality of the building permit. Wouldn't a good, citizen-minded mayor (and city council) allow for a reasonable discussion with affected citizens, regardless of whether some supposed legal deadline for a hearing had passed?

Will you help me and my neighbors with any of the three things listed above? Thank you.

s/ Brian J. Stutzman
Brian J. Stutzman
3190 Disney
523-0006 W
528-8020 H

Personal handwritten note on Councilmember Eldredge's letter:

Brad –

I remember, years ago, when you stayed a few nights with my family, back when you were in college. My parents are wintering in Florida and spending summers in Idaho. My two brothers both live in Idaho Falls now. Could you help us on this matter?

s/ B

Personal handwritten note on Councilmember Lehto's letter:

Mike –

Welcome to City Government! We are looking for leaders to help us. Can we count on you?

s/ B

Personal handwritten note on Councilmember Rose's letter:

JANUARY 27, 2000

Bruce –

Welcome to City Government! We are looking for leaders to help us. Can we count on you?

s/ B

January 22, 2000
2389 Malibu Drive
Idaho Falls, Idaho 83404

City Council – Teton Apartments
c/o City Clerk
P. O. Box 50220
Idaho Falls, Idaho 83405

Dear City Council:

Yesterday the enclosed flyer was left at my house. In my opinion the arguments presented are ridiculous. I hope that the City Council will not stop this development because of these hysterical people.

If their real concern is traffic and overcrowded schools, they should have started to protest when Shamrock Park, Cedar Ridge, and all the developments south of Sunnyside were about to start.

Since the land was zoned for multi-family units before most of their homes were built, they should have decided then that they didn't want to be that close to apartments.

I've never seen any information about how many of the apartments will be rented at below market rate. I believe it is usually a percentage from perhaps 5% to 20%. From the letters to the editor, it almost sounds like this is a public housing project. I would like to see something about that on the news.

About 30 years ago, I attended a hearing in Pittsburgh, PA. The city wanted to build an apartment house for low-income senior citizens. This type of housing was desperately needed. People from the neighborhood brought up the same arguments. The schools would be impacted (by senior citizens?). There would be traffic jams. The real issue was that some of those senior citizens might be black.

Is the real issue that poorer people should not be allowed to live within a few blocks of the wealthy?

We live a short distance from 25th Street. Those lots were zoned for single-family homes. We had no right to say who could build a house or live there. This land is zoned for multi-family units. As long as the buildings conform to the zoning and other city criteria, no one else should be able to say who can live there.

Sincerely,

Attachment to above letter:

s/ Dolores G. Hill

JANUARY 27, 2000

STOP TETON APARTMENTS!

PUBLIC HEARING

Thursday, January 27, 2000, 7:30 p.m.
City Council Chambers
140 South Capital Avenue, Idaho Falls

IMPACT ON CITY:

SCHOOLS:

- The School Board states children will be bused across town to Edgemont, Theresa Bunker, Linden Park, Dora Erickson, and other schools
- This violates the neighborhood school concept

TRAFFIC AND SAFETY:

- In 1999 there were approximately 500 traffic accidents within a one-mile radius of this project
- The Teton Apartment Project will significantly increase traffic in this area
- Approximately 2000 more vehicles per day will cross Woodruff & 17th, St. Clair & 17th, Channing Way and 17th, Holmes & 17th, St. Clair and Woodruff, St. Clair and 25th, and Sunnyside and Woodruff
- 2000 additional cars per day will cross the bike path at the 25th Street intersection

TAXES:

- Property values will drop an estimated 10 to 20 percent
- \$15 to \$30 million dollar loss tax basis due to decreased property values in the immediate area surrounding the Teton Apartments

Attend the City Council Meeting January 27th at 7:30 PM

Write your City Councilmen today:

City Council – Teton Apartments
c/o City Clerk
P. O. Box 50220
Idaho Falls, Idaho 83405

E-mail: beckyj@srv.net

E-mails will be printed and taken to the City Clerk

Dear Neighbor,

I would like your signature on a petition, if you are not contacted this weekend please call 523-2253 and leave your address and best time (A.M., or after 6:00 P.M.), in a brief message.

JANUARY 27, 2000

Thanks for your time,
Sharon
2468 Belmont Avenue

Renée R. Magee
Director of Planning and Building Division
P. O. Box 50220
Idaho Falls, ID 83405-0220

Dear Ms. Magee:

I am writing you to have my family's name added to the list of families that are affected by the construction of the "Linda Milam memorial housing project", otherwise known at the Teton Apartments. I did not receive any written notices of the hearing, and I wish to receive all notices pertaining to this issue.

I have lived in this neighborhood for over 20 years. I lead the unsuccessful fight by the neighborhood opposing the rezoning of the area many years ago. All we got was a small section zoned R-1 as a buffer and a promise from Mr. Skidmore that he would build high scale condominiums. So much for promises.

s/ Denny Fillmore
2260 Briarcliff
Idaho Falls, Idaho 83404

January 22, 2000

City Council
c/o City Clerk
P. O. Box 50220
Idaho Falls, Idaho 83405

RE: Teton Apartments

It should be obvious to anyone reviewing the enclosed aerial photograph, that the Teton Apartment complex does not fit in with the structures of the existing neighborhood.

It also appears obvious that officials of the City of Idaho Falls did not consider the detrimental impact a complex of this size and nature would have on the existing neighborhood.

Are the elected city officials acting in the best interest of Idaho Falls and its residents?

s/ E. D. Hampton
s/ Barbara Hampton

Attached to above letter: Aerial Photograph from Post Register Newspaper dated Saturday, January 22, 2000.

JANUARY 27, 2000

Renée R. Magee
Director, Planning and Building Division
P. O. Box 50220
Idaho Falls, Idaho 83405-0220

Dear Ms. Magee:

I believe that I/we will be affected by the Teton Apartment complex but was not included in the notifications sent by the city of the hearing on January 27th concerning this issue.

Sincerely,

s/ Michael S. Vargo
s/ Kay G. Vargo
1263 East 25th Street

Handwritten note on bottom of above letter:

Traffic continues to increase on 25th Street with the continued growth of commercial establishments such as the Edwards Theatre, restaurants, a motel, a sports bar, etc., east of 25th Street and Woodruff. We are concerned with the Teton Apartment complex adding to this problem. We don't need more traffic. The City promised to keep 25th Street speed under control (25 mph) but it didn't happen since the police patrol can't be on the street all the time. They (City) stated that there was no money available for speed bumps, but they can fund a bridge over the canal at 25th and Holmes!

Renée R. Magee
Director, Planning and Building Division
P. O. Box 50220
Idaho Falls, Idaho 83405-0220

Dear Ms. Magee:

I believe that I/we will be affected by the Teton Apartment Complex but was not included in the notifications sent by the city of the hearing on January 27th concerning this issue.

Sincerely,

s/ Delores Madden
1805 East 25th Street

Handwritten note on bottom of above letter:

There is already too much traffic on 25th – the street cannot handle any more. There are certain times of the day when the traffic is bumper to bumper and you can't even back out of your driveway.

JANUARY 27, 2000

January 12, 2000

City Council
City of Idaho Falls
140 South Capital Avenue
Idaho Falls, Idaho 83402

Re: Teton Apartment Subdivision No. 1

Dear Councilmembers:

Flood Control District No. 1 has for years been concerned about the development south of 17th Street between Hitt Road and St. Clair Road because of the potential for flooding. In approximately 1962, the ground froze solid and there was considerable snow in the foothills and higher. In the spring, the snow melted extremely fast accompanied by heavy rains. There was not enough capacity in the various canals (Highline, Sand Creek and other smaller ones) to handle all the water, and there was considerable flooding particularly in the area of the hospital.

No new drainage channels have been constructed since that time so similar run off conditions could well result in similar flooding. Potential damage increases as development becomes more intense. That should be a consideration in granting or denying the subdivision.

Yours truly,

FLOOD CONTROL
DISTRICT NO. 1
OF IDAHO

by: s/ Blair Grover
Blair Grover, Attorney

January 23, 2000

Mayor Milam and Members of the Idaho Falls City Council:

We, Margaret and Dieter Knecht, residing at 1710 Del Mar Drive, Idaho Falls, Idaho 83404, are opposed to the Teton Apartment Project located in our neighborhood.

We are opposed to the way this has been passed by the Council, with lack of public input and questionable legality of the permit (actually illegality of the permit) to build the project. We are opposed to the extreme density and size of the project, as well as the lack of proper impact analysis of the project by the City. We are opposed to the visual impact of the project, with rows and rows of the backs of garages facing St. Clair and Sunnybrook. We are opposed to the severe projected impacts on traffic in the area, with some estimates of 2000 more cars per day crossing major intersections ringing the area.

We are concerned about the potential impacts on schools as well, with some estimates of as many as 300 additional school age children to be relocated to

JANUARY 27, 2000

these apartments. We do believe that low-income housing is needed in our community, but certainly not at the density and size of this project in any one location.

Sincerely,

s/ Peggy Knecht
s/ Dieter A. Knecht

January 24, 2000

City Council
c/o City Clerk
P. O. Box 50220
Idaho Falls, Idaho 83405

Re: Teton Apartments

Dear City Councilmembers:

I would like to express my dismay at the construction project currently going on at the south end of the residential area where St. Clair and Woodruff come together. I live at 2180 Briarcliff Avenue. It appears to be very high density! I understand that there will be 157 units in that relatively small acreage.

I attended a City Council Meeting July 12, 1979 in which the zoning of this parcel of land was discussed. Several citizens from my neighborhood were in attendance at that meeting to protest the zoning of that property as R-3 which we understood to be high-density dwellings. At that meeting Dick Skidmore stated that we had nothing to fear in that regard because he owned the property and he was planning to build very nice condominiums on that site. I was aware of the quality of Skidmore Construction and that was gratifying to me. As I recall, the north end of the plat was zoned R-1 and the south end was zoned R-3 in order to provide Mr. Skidmore the correct zoning for condominiums.

This summer I heard by the "grapevine" that MANY apartments were going to be built and they would be "low income housing". I know the homes where many of you reside and I'm sure that if you were to consider this matter objectively for just a moment, you can empathize with my concerns about the proximity of this development. The discrepancies between this project and the surrounding properties are staggering! I also feel that I should have heard about this from the City Council. I have been notified in the past on issues much less inflammatory than this one. I still have not been notified, as is customary, even for the meeting scheduled this week.

I felt deceived. I knew that Jake Cordova was on the Planning and Zoning Committee so I called him. As I was talking with him regarding my concern, he recalled being at the same July 12, 1979 meeting. While we were discussing the events and the intent of that City Council Meeting, Mr. Cordova said, "I

remember that! Dick Skidmore pointed his finger at you and said, "I am planning to build condominiums in that area and they will be nicer than any of

JANUARY 27, 2000

your homes”. We discussed that his comment was comforting to me because I happened to be living in one of the nicer homes on the street.

I called Mr. Cordova a few days later to check some specifics on zoning issues. As we were then discussing that same City Council Meeting, he “could not recall any of the specific comments made by Mr. Skidmore”. I was puzzled that earlier he had such great recall of a meeting that occurred 20 years prior and all of a sudden he could not remember our conversation from a week or two previous. He did mention that since the land had once been zoned R-3 (for whatever the intent) that now it could be developed in whatever qualified as R-3 without regard as to how the project fits into the neighborhood.

As I consider this project, there is something missing, I think it is INTEGRITY.

I have found recently that the State of Idaho has land use laws that prohibit this sort of thing even if our City Planning and Zoning Committee do not. This project appears to be illegal.

I’m hoping this project can be cancelled.

Sincerely,

s/ Vernon O. Gaffner
Vernon O. Gaffner

January 24, 2000

To: City Council – Teton Apartments

I had to address you because of a flyer I saw regarding the Teton Apartments. I have enclosed a copy for you.

I don’t believe some of the facts are correct. Please address them at your upcoming meeting. I have read a statement from School District No. 91 that they do have room for these students at schools already in place. What is wrong with a 15-20 minute bus ride? Maybe the children could make some new friends.

TRAFFIC

The 500 accidents within a 1-mile radius includes the following areas: IFHS, EIRMC, Hillcrest High School, Grand Teton Mall, and 17th Street. Do you think those living in these apartments will be reckless drivers? It seems some are already out there. Maybe the City needs to address some traffic control problems. 2000 cars per day added doesn’t add up either. At 157 apartments and 2 cars per apartment, at twice daily doesn’t add up to 2000. It would be 1 car per apartment leaving 6 times each day or 6 trips per apartment each day. Doesn’t seem realistic to me.

JANUARY 27, 2000

TAXES

I'm not sure the property taxes and valuation will drop. What other use is there for that property piece, or why hasn't anyone already built there? If the Teton Apartments are stopped and the developer sues the City, then who pays? All City taxpayers.

People living in this neighborhood appear to want to be exclusive. Can't we all be good neighbors in Idaho Falls? Why don't they look at it as an opportunity to make friends and maybe help someone out? Did everyone in this neighborhood start out living in \$500,000.00 homes? Probably not. They could have lived in "affordable housing" while going to law school or something. Maybe these neighbors need to have the book of Dr. Seuss "Sneeches on the Beaches" read to them.

These are just some thoughts for you to think about. Here is my phone number 522-7037 if you need to contact me. I would not like my name to be made public because my boss lives in that area, but feel free to call me.

Attachment to letter:

STOP TETON APARTMENTS!

PUBLIC HEARING

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JANUARY 27, 2000

Attend the City Council Meeting January 27th at 7:30 PM

Write your City Councilmen today:

City Council – Teton Apartments
c/o City Clerk
P. O. Box 50220
Idaho Falls, Idaho 83405

E-mail: beckyj@srv.net

E-mails will be printed and taken to the City Clerk

E-mail addressed to Joe Groberg and the Idaho Falls City Council, from Eugene

V. Knox:

To: Joe Groberg and the Idaho Falls City Council
From: Eugene V. Knox kenoek@ida.net
Subject: Teton Apartments

What could possibly make the Mayor and entire City Council take such a seemingly adversarial position to the people who elected them? I really don't know if there is anything going on behind the scenes, I hope not. The interests of out of state developers should be the last consideration of the mayor, yourself, or any of the other Councilmembers. This Clintonian charade of legal posturing and careful maneuvering has gone far enough. It is time for men and women of character to step forward and make some difficult choices. This whole thing has gone far past the point where there are any easy answers or solutions. No matter what is done, there will be negative consequences. The real question is, what is the right thing? To me, the answer is clear. We were and still are being denied a voice. Our voice not only needs to be heard but seriously considered. The easy thing to do is to validate the city council's previous decision to promote this development. The difficult thing will be to do what should have been done six months ago and strike this thing down.

Eugene Knox
1815 East 25th Street
Idaho Falls, Idaho

January 17, 2000

Joe Groberg
1269 Homer Avenue
Idaho Falls, Idaho 83404

Re: Teton Apartments

Dear Councilman Groberg:

I have attended several city council meetings since moving to Idaho Falls roughly a year and a half ago. Most of the time I have attended as a direct

JANUARY 27, 2000

result of the controversy revolving around the proposed Teton Apartment project. I sit in the council chambers in what can only be described as a mix of disbelief, frustration, anger, and contempt.

I am a person of strong feelings and opinions and oftentimes express them. I even petitioned to run for city council myself, with the hope of winning one of the seats and thereby infusing some accountability into what struck me as a group of people who cared little for the opinions of their constituency. Due to circumstances at the time of the election, I reluctantly withdrew from the race. I was running against Brad Eldredge and in light of his obvious (through body language and facial expression) contempt for us, the residents surrounding the Teton Apartments, wish I had bumped him out of his seat. I feel that he has violated a sacred trust and is undeserving of the position he occupies.

I digress. The real point I want to make is that soon you will have the opportunity to vote on an issue that affects hundreds of households, which by the way, is no small part of the City of Idaho Falls. I perceive that you are the kind of person who does not wish to be party to contention. In a way, I admire that because it is a character trait that I wish I had. However, there are times when following the path of peacemaker is not what is needed.

I have also heard the mantra "The developers have rights too". As a developer, I am sure that you can sympathize with their position. The fact remains that you and the rest of the city council and mayor were elected to represent us, the residents of Idaho Falls, not the interests of people who frankly couldn't care less about us.

This apparent zeal for out of state interests had me a little befuddled. I ask myself, "What could possibly make the Mayor and entire City Council take such a seemingly adversarial position to the people who elected them?" I really don't know if there is anything going on behind the scenes, I hope not. The interests of out of state developers should be the last consideration of the mayor, yourself, or any of the other Councilmembers. Joe, enough is enough! This Clintonian charade of legal posturing and careful maneuvering has gone far enough. It is time for men and women of character to step forward and make some difficult choices. This whole thing has gone far past the point where there are any easy answers or solutions. No matter what is done, there will be negative consequences. The real question is, what is the right thing? To me, the answer is clear. We were and still are being denied a voice. Our voice not only needs to be heard but seriously considered. The easy thing to do is to validate the city council's previous decision to promote this development. The difficult thing will be to do what should have been done six months ago and strike this thing down.

Sincerely,

s/ Glen Halliday
Glen Halliday
2720 Glenwood Drive

529-0799

JANUARY 27, 2000

The Planning and Building Director submitted the following list of exhibits used in connection with this final plat determination:

- Slide 1 Vicinity Map
- Slide 2 R-3 Residence Zone, Lists uses permitted by right in R-3 Zone
- Slide 3 Aerial Photo
- Slide 4 Final Plat
- Slide 5 Subdivision Ordinance
- Slide 6 Looking southeast at the site from the intersection of St. Clair Road and Dwight Street
- Slide 7 Looking east at the site from the intersection of St. Clair Road and Dwight Street
- Slide 8 Looking north along Woodruff Avenue from the intersection of St. Clair Road and Woodruff Avenue
- Slide 9 Traffic Projection
- Slide 10 Traffic Accidents by Number
- Slide 11 Traffic Accidents by Frequency
- Exhibit 1 Planning Commission Minutes from May 11, 1999
- Exhibit 2 Staff Report of January 24, 2000, with Attachments, as follows:
 - A) Real Property Option Agreement
 - B) Assignment
 - C) Title Commitment
 - D) Warranty Deed
 - E) Letter submitting plats from Mountain River Engineering (Applicant's Engineering Firm), April 20, 1999
 - F) Application submitted to Public Works Division by E-mail, April 30, 1999
 - G) Letter requesting inclusion on January 27, 2000 Council Meeting
 - H) Copies of receipts for fees paid
 - I) Memorandum of Kent Magleby, City Engineer, January 12, 2000
 - J) Memorandum of John Smith, City Surveyor, January 12, 2000
 - K) Final plat review, January 11, 2000
 - L) Final plat review, April 26, 1999 and May 25, 1999
 - M) Excerpts from Trip Generation Manual, 6th Edition, Institute of Transportation Engineers
 - N) Model runs from Bonneville Metropolitan Planning Organization with Teton Apartments
 - O) Excerpts from 17th Street Traffic Study, August, 1999
 - P) Teton Apartments, Summary of Available Space, School District No. 91
 - Q) Data on persons per occupied unit, vehicles available
- Exhibit 3 City Surveyor's Checklist on Teton Apartments
- Exhibit 4 Excerpt from the Trip Generation Manual published by the Institute of Transportation Engineers, 6th Edition, which addresses trip generation daily trips for single-family attached and apartments

The Planning and Building Director explained that the area under consideration was annexed in 1978 and was zoned R-3. This was part of an annexation of 40 acres referred to as the Prestwich Farm annexation. She described the boundaries of the 40 acres for

JANUARY 27, 2000

Council. The Planning and Building Director described the Final Plat under consideration as being a triangular piece of property due to the location and design of St. Clair Road and Woodruff Avenue. Woodruff Avenue is classified as a minor arterial with a right-of-way of 90 feet in width. St. Clair Road is classified as a collector street with a right-of-way of 60 feet in width. There is a 15-foot easement on the west side of the property for drainage, utilities, and bike path. There is a 10-foot easement along the east side of the property for utilities, along with an 8-foot easement along the north side of the property for utilities. As the Planning Commission requested, the wording "No Direct Access onto Woodruff Avenue" has been placed on the Final Plat as a condition of the Planning Commission review. She stated that the issue before the City Council is an application for a Final Plat. The issue is compliance with the Subdivision Ordinance. Unlike zoning, which addresses land use, platting controls the dividing and sale of real property. The Subdivision Ordinance addresses such issues as: 1) the appearance and accuracy of the Final Plat; 2) layout of the streets, including width, street grading and surfacing; 3) storm drainage; 4) sidewalks; 5) sewers; 6) water mains; 7) lot size, meaning the width and area of the lots; 8) sidewalks; 9) easements and dedication requirements; and, 10) most ordinances provide procedures for processing final plats. The purpose of a Subdivision Ordinance is to assure that land sales are recorded in a clear and easily traceable manner and to assure that utilities and streets are developed in accordance with City Standards.

The Planning and Building Director stated that this Final Plat, as all other Final Plats, has been reviewed by the City Engineer, the City Surveyor, and representatives of the Planning Department, Electric Division, Fire Department, Sewer Department, Water Department, Sanitation Department, and other members of the Public Works Division, such as the Traffic Technician. The aforementioned staff has found this Final Plat to be in compliance with the City's Subdivision Ordinance.

The Planning and Building Director stated that the application and Final Plat for Teton Apartments, Division No. 1 were filed with the City in April, 1999. At the time this was received, the developer and owner had an option interest in the property. Staff has reviewed this Final Plat at least twice, and probably 3-4 times in the past 3 years. The Planning and Building Director explained that one issue that will be addressed is with regard to the requirement to have a traffic study completed under the Comprehensive Plan. When it is anticipated that a development generates over 200 vehicle motor trips per peak hour (4:00 p.m. to 6:00 p.m.), that the City should require a traffic impact study. Apartments generally generate less traffic than single-family detached homes. The Trip Generation Manual, written by the Institute of Transportation Engineers, states that trips generated during the peak hour averages .58 for low-rise apartments (apartments that exist in one or two stories). Therefore, with this development of 157 units and if it were totally occupied, would generate 91 peak hour trips on a weekday. That falls below the guideline that the Comprehensive Plan suggests for the requirement of a traffic impact study. Another factor that would generate a request for a traffic impact study would be an access to Woodruff Avenue, which is an arterial street. With the wording "No Direct Access onto Woodruff Avenue" on the Final Plat, there will be no such access. The Planning and Building Director stated that St. Clair Road operates at a level of service "A".

The Planning and Building Director explained that the Final Plat is submitted to the Police Department, Bonneville County Planning Office, the Telephone Company, Intermountain Gas Company, and the applicable School District. On this particular plat, the Assistant Planning Director sent a letter to District No. 91 on May 17, 1999, advising them of the apartment project. School District No. 91 did not respond in May, 1999. Since that time, School District No. 91 has provided a summary of estimated available classroom space

and estimated enrollment. The School District stated that the estimated enrollment from this apartment complex would be 98 students. This figure was arrived at by doubling their original estimates per classroom. The Planning and Building Director prepared her own

JANUARY 27, 2000

numbers, basing her information on the Census data. When she doubled her figures, she arrived at 84 students to be generated from this apartment complex.

Councilmember Lehto presented a letter that he received from Roger and Sondra Black (identical to others received by City Council) to be made a part of the record.

The Planning and Building Director reaffirmed for Council that the Planning and Building Division has a memorandum from the City Engineer that finds this Final Plat to be in compliance with the City's Subdivision Ordinance, Title 10, Chapter 1 of the Idaho Falls City Code; has a memorandum from the City Surveyor that finds this Final Plat to be in compliance with the City's Subdivision Ordinance, Title 10, Chapter 1 of the Idaho Falls City Code; and, has a Final Plat Review Checklist completed by the Assistant Planning Director that also finds that this Final Plat is compliance with the Subdivision Ordinance.

Councilmember Rose requested the Planning and Building Director to explain what a minor arterial is. The Planning and Building Director explained that the definition of an arterial, major or minor, is to move traffic from one portion of the community to another. The function of a collector street is to move traffic from local streets onto arterial streets. The function of a local street is to provide access to single-family homes, to commercial developments, etc.

Councilmember Rose questioned the Planning and Building Director where she received her information regarding apartments generating less traffic than single-family homes. The Planning and Building Director stated that this information is found in the Trip Generation Manual from the Institute of Transportation Engineers. In the 1990 Census, 23% of owner-occupied homes had one vehicle, while 54% of renter-occupied homes had one vehicle. In the same Census, 52% of owner-occupied homes had two vehicles, while 39% of renter-occupied homes had two vehicles.

Councilmember Rose requested to know how many students the School District indicated there was room for. The Planning and Building Director stated that the School District had total available space for 343 students. The School District estimated approximately 98 students would be generated from the Teton Apartments.

Councilmember Groberg requested the Planning and Building Director to explain what type of information the City Council should be expected to hear in this setting regarding Subdivision Ordinance compliance. The Planning and Building Director restated for Council what is required for Final Plat compliance.

Councilmember Rose requested the applicant or representative of the applicant to come forward at this time.

Timothy Hopkins, Attorney for Teton Apartment Associates who is the applicant for the approval of the Teton Apartments Subdivision, Division No. 1 Final Plat, appeared to explain that this project is underway. In September, 1999, building started and continues on a daily basis. Mr. Hopkins introduced Greg Berrago (Owner's Representative), Daryl Kofoed (Project Engineer from Mountain River Engineering), Gary Funkhouser (Traffic Engineer from Boise, Idaho), and David Shipman (Partner to Mr. Hopkins). Mr. Hopkins requested that the record be inclusive of all papers and documents that have been submitted by the applicant up to this time in support of it's application for final plat approval. He stated that the Planning and Building Director's presentation was excellent and all-inclusive. In view of the late hour, and in the interest of so many people in attendance to testify before Council, he did not offer further presentation in a formal manner. Mr. Hopkins stated that he and his team were available for any questions from Council.

Councilmember Rose questioned how long the project had been in the works. Mr. Hopkins stated that the project has been in the works for more than a year. The project has been under construction since September, 1999.

Councilmember Eldredge questioned whether a traffic study has been undertaken for this project. Mr. Hopkins stated that Mr. Funkhouser has undertaken a

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review of the traffic implications of this development. He has not undertaken a traffic study, and is prepared to answer questions regarding the traffic implications of the project.

Councilmember Hardcastle requested Mr. Hopkins to define this development. Mr. Hopkins stated that this is an apartment development. The R-3 Zone accommodates a density of 35 residential units per acre. This development has a density of approximately 15 residential units per acre. The density is less than half of what it might be, based upon the zoning requirements. This is a project that is devoted to lower to middle income residents. Qualifications for residence depend upon qualifications of income. The type of individuals that one could anticipate applying for residence in these apartments are those who would be bank tellers, cashiers, correction officers, hotel desk clerks, medical assistants, opticians, preschool teachers, radio and television announcers, receptionists, teacher aides, title searchers, travel agents, and retail sales people.

Councilmember Rose requested Mr. Hopkins to speak to the storm water retention pond and the drainage of this property. Mr. Hopkins requested Daryl Kofoed from Mountain River Engineering to address this issue.

Daryl Kofoed, Mountain River Engineering, 1020 Lincoln Road, stated that the storm water retention pond for this development was anticipated by the City in 1991 with the Woodruff Avenue extension project. The City of Idaho Falls put considerable money into the storm water park that exists on the other side of the plat. A stub exists to accept the storm water, with additional retention area necessary to handle the entire block. They have complied with that requirement.

Councilmember Rose repeated instructions for interested persons testifying at this public hearing.

Councilmember Rose requested those interested citizens presenting evidence and testimony on compliance of the Final Plat, to appear at this time.

Kay Robinson Westman, 171 Colonial Way, appeared to represent the silent majority, citizens of Idaho Falls who live in many different areas of this city. When she looks at a map of the City, she sees the community of Idaho Falls stretching miles in all directions from the disputed triangle of land. She stated that she has lived in apartments and purchased 7 homes in various states before settling in Idaho Falls. When she moved to Idaho Falls approximately 9 years ago, her family looked at homes along 25th Street. They guessed that 25th Street would some day be a busier arterial street, and had that confirmed to them when they contacted the Planning Office. Ms. Westman also noted that the zoning for the triangular piece of land at the corner of St. Clair Road and Woodruff Avenue was zoned multi-family residences 22 years ago. This information was available to anyone. Hearings are required to change existing zoning. The property owner is the one who may request change. She stated that a person should research the zoning of a vacant piece of ground, prior to purchasing a home in a particular area. Ms. Westman stated that she resents having the City Government and the entire community of Idaho Falls held hostage while some people engage in temper tantrums via lawsuit. Two lanes of traffic on the west and four busy lanes of traffic on the east of this development provide a natural barrier. The Teton development is a new and separate neighborhood. Many Idaho Falls citizens need this housing. The City Government serves all citizens of Idaho Falls. It would be ludicrous to tear down the Teton Apartments. There are many people that support this development. She thanked the Mayor, Council, and City Staff for serving the entire community and for having strong backbones.

Councilmember Rose requested those presenting evidence and testimony regarding non-compliance of the Final Plat to come forward at this time.

Brad Hall, 2840 Sunnybrook Lane, appeared to present a list of exhibits used in connection with his testimony, as follows:

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- Exhibit A Judgment of Case No. CV-99-3606 between Gail Olson, et. al., (Petitioners) vs. City of Idaho Falls (Agent/Respondent) from District Judge Richard T. St. Clair dated December 28, 1999
- Exhibit B Memorandum Decision of Case No. CV-99-3606 between Gail Olson, et. al., (Petitioners) vs. City of Idaho Falls (Agent/Respondent) from District Judge Richard T. St. Clair dated December 28, 1999
- Exhibit C Memorandum Decision and Order of Case No. CV-99-3606 between Gail Olson, et. al. (Petitioners) vs. City of Idaho Falls (Agent/Respondent) from District Judge Richard T. St. Clair dated November 18, 1999
- Exhibit D Copy of a portion of the April 26, 1999 Final Plat (Owner's Certificate and Acknowledgement) from Teton Apartments Limited Partnership, with Mountain River Engineering as Engineers.
- Exhibit E Copy of a portion of the May 27, 1999 Final Plat (Owner's Certificate and Acknowledgement) from Teton Apartments Associates, LLC, with Mountain River Engineering as Engineers.
- Exhibit F Copy of a portion of the Final Plat (Owner's Certificate and Acknowledgement dated June 2, 1999) for Teton Apartments Subdivision, Division No. 1, with Mountain River Engineering as Engineers.
- Exhibit G Statutory Warranty Deed between Custom Land Development Company (Grantor) and Teton Apartment Associates, LLC (Grantee) dated July 14, 1999
- Exhibit H Development Agreement for Teton Apartments Subdivision, Division No. 1 between the City of Idaho Falls and Teton Apartment Associates, LLC dated May 28, 1999
- Exhibit I Access Management Plan for the Idaho Falls Metropolitan Area, Final Report dated February, 1998 prepared by Bonneville Metropolitan Planning Organization and Entranco
- Exhibit J Letter addressed to School District No. 91 Administration from Clinton E. Boyle, Assistant Planning Director, regarding Proposed Teton Apartments dated May 17, 1999
- Exhibit K Affidavit of Bonneville County Assessor Blake Mueller for Case No. CV-99-3606 between Gail Olson, et. al. (Plaintiffs) vs. City of Idaho Falls (Defendant) dated January 10, 2000, along with attachments
- Exhibit L Letter addressed to Mr. Kenneth L. Koss from American Property Development, Inc. regarding proposed affordable housing complex, The Teton Apartments, from Mayor Linda Milam dated February 9, 1998
- Exhibit M Partial Transcript of City Council and County Commission Meeting on April 23, 1999
- Exhibit N Subdivision Ordinance, Title 10, Chapter 1 of the City of Idaho Falls City Code of Ordinances
- Exhibit O Subdivision Policy Procedure for the City of Idaho Falls dated September 14, 1984
- Exhibit P Excerpt from Local Land Use Planning Act
- Exhibit Q Agency Transcripts for Case No. CV-99-3606 between Gail Olson, et. al. (Plaintiffs) vs. City of Idaho Falls (Defendant), Proceedings

before the City Council on May 27, 1999 and Proceedings before
the City Council on July 22, 1999

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- Exhibit R Agency Record for Case No. CV-99-3606 between Gail Olson, et. al. (Plaintiffs) vs. City of Idaho Falls (Defendant), containing the following:
- a. Planning Commission Minutes, May 11, 1999
 - b. Slides, Planning Commission Meeting, May 11, 1999
 - c. Staff Report, May 11, 1999, Planning Commission Meeting
 - d. Transcript, Planning Commission, May 11, 1999
 - e. Extract of City Council Minutes, May 27, 1999, Regular Meeting
 - f. Exhibits submitted at May 27, 1999 City Council Proceeding
 - g. Final Plat, Teton Apartments, Division No. 1
 - h. Enlarged copy of City's acceptance of plat, Teton Apartments, Division No. 1
 - i. Development Agreement, Teton Apartments Subdivision, Division No. 1
 - j. Petition for Public Hearing dated June 21, 1999
 - k. June 29, 1999, Letter to Petitioners from Renée R. Magee
 - l. June 29, 1999, Letter from Dale W. Storer, City Attorney, to Renée R. Magee
 - m. Extract of City Council Minutes, July 22, 1999 Regular Meeting
 - n. Findings of Fact, Conclusions of Law and Decision, July 22, 1999
 - o. Index

Mr. Hall requested the following exhibits also be made a part of the record:

- Exhibit AA E-mail from Gary Mills, former City Councilmember to Dr. Roger Tall, dated January 21, 2000.
- Exhibit BB Planning Commission Hearing Procedures, Section 3.3
- Exhibit CC Excerpt from Local Land Use Planning Act, Idaho Code Section 67-6535
- Exhibit DD Excerpt from Sterling Andelin's Journal dated July 23, 1979
- Exhibit EE Portion of City Council Minutes regarding Rose Nielsen Addition (Prestwich Farm) Annexation and Zoning dated July 20, 1978
- Exhibit FF Portion of City Council Minutes regarding Annexation and Initial Zoning of Unplatted Property south of 25th Street and West of Rose Nielsen Addition, Division No. 10 dated July 12, 1979
- Exhibit GG Letter from Barbara Harrison and Larry Harrison as follows:

January 25, 2000

Dear Members of the Idaho Falls City Council:

We are writing on behalf of a current property owner across the street from the Teton Apartment complex being built between St. Clair and Woodruff Avenue. In 1998, we were in the process of selling our house in Home Ranch and put a contingent offer on a house on St. Charles Circle. We loved the house. It was the only

house out of dozens we had looked at that had what we were looking for. Our house on Redbarn Lane did not sell however and we decided to wait until the spring of 1999 to try again.

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In the spring of 1999 we considered making a second offer on the St. Charles Circle property. By this time, we were aware of the proposed development and obtained a plot plan from the developer Linda Weiss. When we saw the density of apartments in the complex, that the only entrance/exit to the complex would be on St. Clair and that the complex was designed to be 2-1/2 stories high we decided against purchasing the house on St. Charles Circle. The backyard of the house we were considering runs along St. Clair and we decided that the noise from the complex, the additional traffic noise and the added light pollution would make it extremely difficult to enjoy the yard. Also, with the complex being 2-1/2 stories tall it would considerably block the view of the foothills the house has. If the development had been one story garden homes or condos we would still have considered purchasing the property. But under the circumstances, we chose to buy elsewhere.

It is our understanding that the City Council has told homeowners in the area that this development will not hurt their property values. We are writing to inform you that it already has. If we chose not to purchase property in this area because of this development it is quite likely that other prospective homebuyers have also come to the same conclusion.

Sincerely,

s/ Barbara Harrison
s/ Larry Harrison
Barbara and Larry
Harrison

- Exhibit HH Map of Affected Area showing route neighbors would like to see the Teton Apartment residents use
 - Exhibit II Map of Affected Area showing the probable route neighbors believe the Teton Apartment residents will use
 - Exhibit JJ Document regarding Teton Apartments Impact on Elementary Student Space (Using Regular District Class-size Caps and Comparable Student Estimates)
 - Exhibit KK School District No. 91 Long-Term Planning Committee Final Report dated January 20, 1999
 - Exhibit LL Assignment from American Property Development, Inc. to Teton Apartment Associates, LLC dated April 20, 1999
 - Exhibit MM Document to the Mayor and City Council of Idaho Falls regarding January 27, 2000 Public Hearing for the Final Plat Application of Teton Apartment Associates, LLC, requesting Mayor and City Council consideration of questions (Offer of Proof/Evidence).
 - Exhibit NN Facsimile Cover Sheet addressed to Mayor Linda Milam from Ken Koss from American Property Development providing a sample letter of support for the Teton Apartments dated January 29, 1998
- Compact Disc providing slide presentation.

Mr. Hall, continued, by raising an objection to the location of this meeting. He stated that he was told at the last Council Meeting that since the public hearing was scheduled for the

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Council Chambers that he would not be able to request a change of venue. Mr. Hall stated that he was prejudiced at this meeting by the late hour (11:00 p.m.) that it is being held. He stated that Mayor Milam has been concerned with not having this public hearing tainted. The Mayor has made it very clear that he was not to visit with the Council and the Council is not to visit with him. Mr. Hall stated that he would hope that this would be the same for the Council's relationship with their Attorney and with the Attorney for the developer. Mr. Hall requested to know whether the Mayor or the City Council have had any discussions regarding the Teton Apartment development with Special Counsel Ryan Armbruster prior to this public hearing. Mayor ProTem clarified that the only discussion had with Mr. Armbruster was with procedures for this public hearing. Mr. Hall stated that Mayor Milam has been very clear that nothing should be done to taint this public hearing. If there has been discussions between the City Council and the Attorney, in the City's defense, prior to listening to the public discussion, then this hearing has been tainted.

Mr. Hall questioned whether the Mayor or Council have had any discussion with the Developer or the Developer's Attorney, since the lawsuit has been filed. Mayor ProTem Hardcastle stated that there has been no discussion with either the Developer or the Developer's Attorney regarding this lawsuit.

Mr. Hall stated that he would like to demonstrate that the Planning Commission failed to discharge its responsibility as did the City Council on this issue. He believed that the City Council did not study or list as an exhibit the City Council Minutes from July, 1979. He will demonstrate that the development process was flawed by false and incomplete owner certificates submitted by the Developer. He will demonstrate that the citizens have been deprived of the opportunity for the Planning Commission to consider the issues at a public hearing. Mr. Hall stated that if the Council were to review Judge St. Clair's decision that this issue should be heard by the Planning Commission. He will demonstrate that the District Judge has decided that the development process was not conducted in a proper order and that the original application process still remains incomplete. The application is flawed on the City Council level and it is flawed on the Planning Commission level.

Mary Kay Tall, 1655 Coronado, appeared to clarify for Councilmember Lehto which exhibits were to be placed in the record. Ms. Tall stated that Exhibits A-R and Exhibits AA-II were to be submitted.

Following a brief discussion regarding whether only specified representatives will be making a presentation, it was determined that an extensive presentation for City Council was planned. Others would have the opportunity to present their evidence and testimony, also. Councilmember Hardcastle noted, for the record that the time was 10:00 p.m.

Along with the following testimonies, slides were presented as listed below:

- | | |
|---------|--|
| Slide 1 | Teton Apartment Opposition Title Page – January 27, 2000 |
| Slide 2 | Portion of Exhibit EE, July 20, 1978 City Council Meeting Minutes |
| Slide 3 | Portion of Exhibit FF, July 12, 1979 City Council Meeting Minutes |
| Slide 4 | Portion of Exhibit FF, July 12, 1979 City Council Meeting Minutes |
| Slide 5 | Portion of Exhibit 2, Staff Report dated January 24, 2000 |
| Slide 6 | Preliminary Plat Approval – Why did the Planning and Building Commission bypass the Preliminary Plat Procedure? |
| Slide 7 | Preliminary Plat Approval – Where in the Agency Record can it be demonstrated that any preliminary plat or sketch plat was ever submitted to the Planning and Building Commission? |

Slide 8

Preliminary Plat Approval – How did the Planning and Building Director arrive upon a classification for this subdivision, and where is that reflected in the Agency Record?

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- Slide 9 Preliminary Plat Approval – Why did the Planning and Building Commission conduct a public hearing on May 11, 1999 without providing notice to the public?
- Slide 10 Portion of Exhibit BB – Section 3.3 from the Planning Commission Hearing Procedures
- Slide 11 Preliminary Plat Approval – Portion of Agency Record Transcripts
- Slide 12 Preliminary Plat Approval – Portion of Agency Record Transcripts
- Slide 13 Preliminary Plat Approval – Portion of Agency Record Transcripts
- Slide 14 Preliminary Plat Approval – Portion of Agency Record Transcripts
- Slide 15 E-Mail addressed to Roger Tall from former Councilmember Gary Mills dated January 21, 2000
- Slide 16 Preface – Portion of City Council Meeting Transcript from May 27, 1999
- Slide 17 Procedural Compliance – Why has the City Council refused to remand this case back to the Planning and Commission in compliance with Judge St. Clair’s December 28, 1999 Memorandum Decision?
- Slide 18 Procedural Compliance – Portion of Judge Richard St. Clair’s Memorandum Decision of December 28, 1999
- Slide 19 Procedural Compliance – Portion of Judge Richard St. Clair’s Memorandum Decision of December 28, 1999
- Slide 20 Exhibit D – Owner’s Certificate from Teton Apartments Limited Partnership dated April 26, 1999
- Slide 21 Exhibit E – Owner’s Certificate from Teton Apartment Associates, LLC dated May 27, 1999
- Slide 22 Exhibit F – Owner’s Certificate from Teton Apartment Associates, LLC dated June 2, 1999
- Slide 23 Exhibit G – Statutory Warranty Deed from Custom Land Development Company to Teton Apartment Associates, LLC dated July 14, 1999
- Slide 24 Exhibit G – Statutory Warranty Deed from Custom Land Development Company to Teton Apartment Associates, LLC dated July 14, 1999
- Slide 25 Exhibit H – Development Agreement for Teton Apartments Subdivision, Division No. 1 between the City of Idaho Falls and Teton Apartment Associates, LLC, Page 1
- Slide 26 Exhibit H – Development Agreement for Teton Apartments Subdivision, Division No. 1 between the City of Idaho Falls and Teton Apartment Associates, LLC, Page 10
- Slide 27 Exhibit NN – Assignment from American Property Development, Inc. to Teton Apartment Associates, LLC dated April 20, 1999
- Slide 28 Procedural Compliance – Planning and Building did not comply with City’s Subdivision Ordinance because it failed to obtain proof of ownership on May 11, 1999...its regularly scheduled meeting date
- Slide 29 Procedural Compliance – Why has the Planning and Building Commission refused to comply with the City’s Subdivision Ordinance and require the developer to submit a new plat application bearing appropriate and fully-executed ownership certification?

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- Slide 30 Procedural Compliance – Where in the City’s Subdivision Ordinance is there provision for bypassing the Planning and Building Commission on a final plat application where no proof of ownership has been provided?
- Slide 31 Procedural Compliance – How does the City’s failure to remand this matter back to the Planning and Building Commission harm the citizens of the City of Idaho Falls?
- Slide 32 Procedural Compliance – The citizens are deprived of the opportunity to review the application in the context of false and incomplete owner’s certificates submitted by the developer.
- Slide 33 Procedural Compliance – The citizens are deprived of the opportunity for the Planning Commission to consider rezoning the property or amending the Comprehensive Plan, or both.
- Slide 34 No Prior Notice – Why was no public notice given or public input solicited.
- Slide 35 No Prior Notice – Why did the Mayor usurp the Planning and Building Commission’s authority to determine if the land was “...appropriately zoned?” (in Mayor Milam’s words, February 9, 1998 letter)
- Slide 36 No Prior Notice – Why did Mayor Milam make statements that indicate the issue was predetermined? For example, at the first meeting she said “We don’t have to.” Then Judge St. Clair said that she did “have to”.
- Slide 37 No Prior Notice – Why did Mayor Milam have contact with the developer 14 months before the initial plat was submitted to Planning and Zoning for consideration?
- Slide 38 No Prior Notice – Why did Mayor Milam violate her own stated policy and refuse to give public notice or request public input?
- Slide 39 Streets and Traffic Safety – Why has the City of Idaho Falls not required compliance with its Access Management Plan with respect to traffic impact studies and traffic density?
- Slide 40 Streets and Traffic Safety – Excerpt from Idaho Falls Metropolitan Area Access Management Plan (Exhibit I) dated February, 1998
- Slide 41 Streets and Traffic Safety – Excerpt from Idaho Falls Metropolitan Area Access Management Plan (Exhibit I) dated February, 1998
- Slide 42 Streets and Traffic Safety – Where in the record is it demonstrated that a traffic impact study (TIS) was ever considered by the Planning and Building Commission or the City Council?
- Slide 43 Streets and Traffic Safety – Isn’t the intersection of St. Clair and 25th considered a “problem” area for collisions? Congestion at peak hours?
- Slide 44 Streets and Traffic Safety – Photos of Traffic Accident Map, 1999
- Slide 45 Streets and Traffic Safety – What studies have been conducted subsequent to the improvement of 25th Street with respect to accidents, traffic density and volume at peak and non-peak hours?
- Slide 46 Streets and Traffic Safety – With 157 (352 Parking Spaces) apartment units proposed in the development, isn’t it clear that there will be total “in and out” vehicular movements from the

development which will exceed 100 in number each morning and each evening during peak hours?

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- Slide 47 Streets and Traffic Safety – Why was developer/owner Carol Rounds required to perform a TIS and Teton Apartments (many times larger) was excused?
- Slide 48 Streets and Traffic Safety – Who will pay for increased costs of redesigning these intersections, signaling or realigning signals?
- Slide 49 Streets and Traffic Safety – Portion of Plat showing probable route of traffic as opposed to route neighbors would like to see residents use
- Slide 50 Streets and Traffic Safety – Traffic pattern continued
- Slide 51 Impact on Sewer and Water – Where in the record is there any indication that the Planning and Building Commission considered the impact of the development on water and sewer service in the adjoining residential areas?
- Slide 52 Schools – Where in the Agency Record has the City Council or Planning and Building Commission either received input from or considered the impact which this development will have upon public schools?
- Slide 53 Schools – Where in the record is there any indication of the enrollment impact which the apartment complex will have?
- Slide 54 Diminished Property Values – Where in the Agency Record has the City Council or Planning and Building Commission considered the effect that this development will have upon surrounding property values?
- Slide 55 Where in the Agency Record has the City Council or Planning and Building Commission considered the impact that this development will have upon the citizens/taxpayers who live in the City of Idaho Falls?
- Slide 56 Additional Questions – How did Mayor Milam first learn of this project?
- Slide 57 Additional Questions – The February 9, 1998 letter from Linda Milam to Mr. Koss likely did not occur spontaneously, but was the result of some contact between her and the developer. How did this contact come about, and why is Mayor Milam not here to answer these questions?
- Slide 58 Additional Questions – Did any members of the City Council discuss or have any communication among themselves with the developer concerning this project prior to April 26, 1999?
- Slide 59 Additional Questions – If so, when and where were these discussions held, who was present and what was the substance of these discussions? Were they recorded?
- Slide 60 Additional Questions – Did any member of the City Council have an opportunity to review the February 9, 1998 letter before Mayor Milam sent it to Mr. Koss?

Sterling Andelin, 2465 Briarcliff Avenue, appeared to state that he has lived in his present location since 1977. He considers himself to be an affected person by the Teton Apartments. Mr. Andelin discussed a page from his Journal from July 12, 1979, in which he attended a City Council Meeting addressing a proposed action to annex and zone land where Legends is currently being built. There was a group of concerned neighbors in attendance objecting to the proposed R-2 zoning and wanted that zoning to be changed to R-1. The

developer and the City Council agreed to zone this piece of property as R-1. He read from his Journal entry regarding this particular Council Meeting, which can be found as Exhibit DD. Mr. Andelin then read excerpts from the July, 1979 City Council Meeting, which can be

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found as Exhibit FF. He stated that the City and the Developer entered into a formal annexation agreement of the Legends property, so that it would be included in a Planned Unit Development to the south. The property where the Teton Apartments are being constructed is the land to the south. Mr. Andelin understood that the City and the Developer would develop the Teton Apartments property under a Planned Unit Development. He stated, also, that the minutes from the July 12, 1979 City Council Meeting were left out of the public record, even as recently as the January 24, 2000 Staff Report prepared by the City Planning Office for this meeting. The proper procedures were not followed and this issue should be addressed by the Planning Commission for further review.

Newell Walker, 2410 Richards Avenue, appeared to state that he is a self-employed small business owner and has conducted business in Idaho Falls for nearly 30 years. On July 12, 1979, he did attend the City Council Meeting addressing the zoning of an unplatted area in Rose Nielsen Addition. Mr. Walker referred to Exhibit FF, in which he questioned whether another public hearing would be conducted when further plans are submitted for this property. Building Administrator Gilchrist answered by stating that a public hearing is required for any development plans for a Planned Unit Development. Mr. Walker stated that he was appalled when the Mayor and City Council denied the request for a public hearing on the proposed Teton Apartment development. He stated that he was aware of the zoning on this piece of land, but he also knew that a public hearing would be required for any development. Mr. Walker stated that everyone should begin at square one. The Planning Commission should complete a feasibility study and hold a public hearing to explain the proposed project, answer questions, and get input. Then a decision can be made by the City Council. Mr. Walker stated that there is no one that is opposed to lower priced housing, but it should not be located where it adversely affects concerned citizens. He recently took petitions to every household along Richards Avenue, and every house opposed this proposed development. He stated that Sterling Andelin took petitions to every home on Briarcliff, and every person that was home opposed this proposed development. Mr. Walker suggested that the Mayor and Council did not hold a public hearing because they knew that the neighbors would oppose this project. He stated that the Mayor and Council took a sacred oath to represent the citizens of Idaho Falls. He requested the Mayor and Council not to cave in to special interests from outside the area, encouraged them to have the courage to stand up for principle and represent the best interests of their constituents, and fulfill the promise made 20 years ago to hold a public hearing.

Michael Tall, 1285 Pebblecreek Court, appeared to state that not too long ago he appeared before City Council to be able to develop a piece of property behind his dental office. Neighbors were upset with him and he lost the decision. That night he received some counsel from Mayor ProTem Ida Hardcastle, telling him to visit with his neighbors regarding the development he proposed. When he listened to their concerns and made some concessions, he was later able to win the decision of the City Council. Mr. Tall stated that the Mayor and City Council have gone contrary to the advice given to him, and have not allowed their constituents to voice their concerns regarding the proposed development.

Delwin W. Roberts, 3232 Merlin, appeared to express concerns for his children attending Edgemont Elementary. He likened the process to a train on a track picking up momentum along the way. He reviewed for Council Section 10-1-16(C) of the City Code, regarding seeking approval of a preliminary plat. Mr. Roberts stated that the Preliminary Plat process was left out of consideration for this development. He stated that no one in attendance is against apartments, they are against apartments that are too dense or heavy for the services that are there. Maybe these apartments should be located elsewhere where the services are available. There was a conditional commitment made to the residents of this

area in 1978. The hearing procedures need to be followed. Mr. Roberts stated that the Planning Commission's hearing procedures do not comply with Idaho State Code Section 67-6534. Under Idaho Code Section 67-6535, fundamental fairness is addressed with regard to

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those hearing procedures. Mr. Roberts reviewed for Council the deficiencies in the Final Plat being considered. He stated that Teton Apartments failed to prepare a Preliminary Plat which the Subdivision Ordinance requires. He closed his statement by saying that the City Engineer did not sign the Final Plat prior to Council consideration of this Plat on May 27, 1999.

Richard Hanks, 2633 Glenwood Drive, appeared to state that he is a licensed Building Contractor in the City of Idaho Falls. He started building in the City, in concurrence with the beginning of the Rose Nielsen Addition in 1978. As a builder, he was interested in the end use of the vacant land across the street from some of the homes that he built. Over the years, he has contacted Custom Land Development several times regarding the proposed use of the land adjacent to the Rose Nielsen Addition. Mr. Skidmore showed a preliminary plan for the area, seeing for the first time the bend in Woodruff Avenue and the adjoining of St. Clair Road to Woodruff Avenue. Mr. Skidmore told him that he would be building low-density condominiums in the area that is now Teton Apartments. Mr. Hanks and his neighbors accepted the assurances of the City Council in 1979 of the procedures required if the use of the area was to change. They had no reason to believe that Planning Director Rod Gilchrist would not conduct a hearing before final development plans. The neighborhood also relied on the continued assurances of Custom Land Development and had a reasonable expectation that these plans would be followed. If the plans were to change, then the City would inform the neighborhoods affected.

Camille Couch, 2746 Laguna Drive, appeared to state that she is a homeowner directly affected by this project. She was concerned that a project of this magnitude could be passed without her having received any information regarding the project. The first time that she heard about this development was at a June meeting with the developer. She reviewed for Council what happened at the meeting with the developer. The developer explained that their bonding was in place and their investors were counting on them to complete the project. Ms. Couch stated that they asked the developer what they could do and Mr. Patrick Kirby from Teton Apartment Associates stated that they could move if they did not like it. The neighborhood told Mr. Kirby that they would do everything in their power to find a better site for these apartments. Mr. Kirby told the neighborhood that this might be a possibility. Ms. Couch requested to know what the Mayor and Council did to protect her interests as a citizen of this City, as a person directly affected. She stated that her fundamental rights as a citizen were violated with the passage of this Final Plat for Teton Apartments. She reviewed for Council the E-mail from former Councilmember Gary Mills to Mr. Tall and the transcript of the May 27, 1999 City Council Meeting with regard to the Final Plat and Development Agreement for Teton Apartments Subdivision, Division No. 1. Ms. Couch expressed her concern for the schools, traffic, property values, and financial security. These issues were not brought up when the Final Plat was approved, only how the bike path would affect the neighborhood. She wanted to question Mayor Milam about why the community was not involved in the decision making process for this development. Upon her further review of the transcript of the May 27, 1999 City Council Meeting, she closed by stating that the doors were closed on her fundamental rights. The City Council has the keys to unlock the correct, legal, and moral thing to do. Send this issue back to the Planning Commission.

Dr. James Richards, 1685 Coronado Street, appeared to state that he is an affected party of the Teton Apartments development. Dr. Richards stated that it is now after 11:00 p.m. He stated that he is not alone in his opposition. He entered into the record, a petition containing more than 800 signatures from citizens in the community who state that "I am against the Teton Apartments". Dr. Richards requested that the City Council refer this matter back to the Planning Commission and that construction be suspended. At the last

Council Meeting, Mayor Milam said that she did not want the public hearing to be tainted. Opponents of Teton Apartments have been advised that this hearing is quasi-judicial, and as a consequence, have been denied their fundamental right to communicate with their

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representatives. In spite of this legal barrier preventing the affected parties access to representation, the City's Attorney has had unlimited access to the Mayor and Council. As Mr. Armbruster represented the City in Court and the construction is continuing on Teton Apartments since the ruling of the Court, he objected to Mr. Armbruster's presence and the contaminating impact of the construction that the City has allowed. The community of affected parties argue that the Final Plat approval was illegally obtained by the misrepresentation of Roger W. Kuula, a managing member of Teton Apartments, LLC. Important issues that should have been considered by the Planning Commission were not heard because the City refused to notify the affected parties. The minutes of a pivotal July 12, 1979 Council Meeting are excluded from the Staff Report. Dr. Richards suggested that this was either by ignorance or conspiracy. Section 10-1-17 from the City Code addresses the Final Plat application procedures, of which proof of current ownership is a part. It is an undisputed fact that the application for Final Plat approval was made on April 26, 1999 and that the Statutory Warranty Deed reflecting transfer of ownership from Custom Land Development Company to Teton Apartment Associates, LLC is dated July 14, 1999. Teton Apartments did not own the land when the application for Final Plat was submitted for approval. Teton Apartments Associates deceived the Planning Commission and the City Council. The Council's actions to approve the Final Plat cannot be grounded upon a falsely filed application. When the approval process is contested, then the standard of the law must be strictly adhered to in order to preserve the fundamental rights of all. The constituents sense that there has been a double standard in this matter by the City Government. Dr. Richards stated that the Final Plat application was not held to the same legal standard as the request for a public hearing. The Council is oath-bound to support and defend the law. He stated that this matter should be referred back to the Planning Commission.

Roger Tall, 1655 Coronado, appeared to state that he is an affected resident of this community. Dr. Tall requested that the Transcription of the portion of the May 27, 1999 Regular Council Meeting pertaining to the Teton Apartments Addition, Division No. 1 be submitted as record. He also submitted Exhibit MM, which are questions that reflect the nature of his concerns. Dr. Tall stated that he could be the last speaker this evening. He first learned of the Teton Apartments Subdivision in the newspaper the day following the May 27, 1999 City Council Meeting. His home is within 300 feet of this development. Dr. Tall stated that Teton Apartments has renewed options to purchase this land since 1995. It is the second largest, tax credit, low-income apartment project in the history of the State of Idaho. They looked at other areas of the state for something to compare to, to see where others may have lost property value. Dr. Tall stated that there is nothing else like this in the entire State of Idaho. No other City Council has chosen to do this to the citizens of their community. He requested the Mayor and City Council to notify citizens of any development that will be going into their area. Dr. Tall stated that the developer told his neighborhood that none of them live closer than 2 miles from such a development. The only interest they have in this community and in this development is money. He reviewed for City Council Section 10-1-17 of the City Code regarding proof of current ownership of real property included in the proposed plat. Dr. Tall reviewed the various Ownership Certificates from an April 26, 1999 Final Plat before the Planning Commission, from a May 27, 1999 Final Plat before the City Council, and from a June 2, 1999 Final Plat signed by the developer. Based upon the fact that the City Council considered a Final Plat where the current ownership was not proven, Dr. Tall requested that this matter be referred back to the Planning Commission for review. He stated that the Final Plat was fraudulent when all agencies passed it before the May 27, 1999 City Council Meeting. Dr. Tall stated that he did not believe that this was the public hearing that Judge St. Clair requested the City to hold. This issue should be

before the Planning Commission, to allow for the complete process to be addressed. Unless a public hearing is conducted before the Planning Commission, the City will be converting a two-step process into a one-step process. Dr. Tall stated that he could be the last speaker as

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he petitioned the City Council to make the right choice for the citizens that they represent to send this back to the Planning Commission and to pull the illegal building permit.

Doug Nelson, 2751 Glenwood Drive, appeared to present to the City Council the following letter:

January 27, 2000
Douglas R. Nelson
2751 Glenwood Drive
Idaho Falls, Idaho 83404

Idaho Falls City Council
and Planning Commission
City Building
Constitution Way
Idaho Falls, Idaho 83402

Re: Teton Apartments – Elementary School Impact

Dear Councilmembers:

I appreciate the opportunity to express my concern regarding elementary school overcrowding which will result from the proposed Teton Apartment Development.

District 91 Solutions – Elementary School Overcrowding

Last year, during my wife's term as Edgemont Elementary PTO President, we became deeply involved in the study of south corridor elementary school overcrowding in District 91. Before implementing final decisions the district administration and volunteers from each area of our community concluded a comprehensive study of elementary school facilities. This study determined general policy objectives and made specific recommendations. I am attaching as Exhibit A, a copy of the School District No. 91 Long-Term Planning Committee Final Report – January 20, 1999 ("Planning Report").

Impact of Teton Apartments

I am also enclosing as Exhibit B my document entitled Teton Apartments Impact on Elementary Student's Space – Using Regular District Class-Size Caps and Comparable Student Estimates ("Impact Analysis"). I have reviewed the District's report that has been submitted as Attachment 16 ("District's Preliminary Estimates) to the Staff Report filed in this matter. **Even though the District has dramatically understated the number of elementary students who will reside in the Teton Apartments, the District proposes to use as many as four (4) elementary schools to accommodate the influx of new students from the Teton Apartments.**

The District's analysis assumes an average child population ranging from birth to age 18 years of age at (.8) children per apartment. This projection was

obtained from data available to the School District on the demographics of typical apartments.

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Teton Apartments are not typical. Rather, they are similar to the existing Aspen Park Apartments located on Alan Street in Idaho Falls. Both Aspen and Teton are tax credit apartments which permits the owners to charge smaller rents. Both complexes are comprised of 1, 2, and 3 bedroom units and both are located on the south and east side of Idaho Falls. However, Aspen Park has only 72 units while Teton is constructing 157 units.

The average number of children residing at Aspen Park over the past several years varies greatly from the School District's estimate for the Teton Apartments. Aspen Park averages (2.15) children per unit rather than (.8) children per unit. Aspen Park has rented to only one senior couple without children in the past two years and there are only five of the 72 apartments that do not house children. The actual demographics are weighted towards elementary aged students. The Aspen Park Manager estimates that 70% to 75% of the children are aged 12 or younger. In fact, the large population of young children contributed to the decision of the Aspen Park owners, Eastern Idaho Special Services, to construct a Head Start building on their premises which doubles as a latchkey facility for young children in after school hours.

The impact of this experienced based estimate is illustrated in the attached Exhibit B. The critical consideration is this: whether we rely upon the District's figures or the experienced based estimate from Aspen Park **a minimum of 6 new elementary classrooms will be required to accommodate the Teton Apartment children.** More realistically we should expect to need as many of 12 new classrooms within the next two years. This problem will be compounded by School District No. 91's decision to provide a pre-school for children ages 3 through 5. When that program is fully implemented we can expect a demand from the Teton Apartment area (based on the 8 to 10 pre-school student cap) of approximately three (3) or four (4) additional classrooms.

Available Classrooms

Attachment 16 (the District's analysis) suggests that six (6) classrooms are available at four (4) different elementary schools: (3) at Edgemont, and (1) each at Bunker, Linden Park, and Erickson. Even if we accept the District's low projection all four (4) schools will be impacted by this development.

Yesterday my wife conducted a walk-through tour with the Assistant Principal of Edgemont School and learned that there are **NO empty classrooms this year**. There are three (3) Technology/Science Lab. Two (2) classrooms in the building are being used for enrichment programs (i.e. FAME Program, Music Room with instruments storage, performing arts practice area, and the ad hoc program area). The Assistant Principal could not explain how the District estimated a three (3) classroom vacancy, unless the District is planning to dispossess the Enrichment Program rooms and cancel the Technology/Science Lab Program. Even if the Technology/Science Lab Program is cancelled, the undersized modular will have to be placed with a standard classroom modular in order to accommodate a minimum class size. In short, the three (3) potential classrooms at Edgemont will all be modular and the fine arts and student

enrichment programs which have been a hallmark of the Edgemont Elementary School will be negatively impacted, if not eliminated.

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Violations of Educational Policy Objectives

In an effort to accommodate the Teton Apartment children at south corridor schools, the School District will be forced to violate several of its long term plan general policy objectives. I direct your attention to Objectives No. 2, 3, 4, and 7. These objectives set forth the following practices:

- Elementary Schools should accommodate 22 students per class with an acceptable range of 18 to 25 (No. 2).
- Elementary Schools such as Edgemont, with 3 classrooms per grade should not exceed 450 students. **(Please note that the experienced based projection indicates a minimum enrollment potential at Edgemont, including Teton Apartment area, of 534. This could be as great as 667 without referral to other schools)** (No. 3).
- “The **highest priority** in all decisions regarding facilities for elementary schools is to maintain neighborhood, community schools with contiguous population boundaries...” (Emphasis added, No. 4).
- “A student population “island” will be defined as an area which is not contiguous with the population boundaries to the school to which the students from the area are assigned. The creation of student population “islands” will be considered only as a last resort. If the creation of “islands” is considered absolutely necessary, they will first be created in new subdivisions. Reassigning “islands” to **different schools is not considered prudent or acceptable**” (Emphasis added, No. 7).

The District’s analysis directs the Teton Apartment elementary aged students to as few as four (4) separate elementary schools in the south side corridor. In the event that the experienced based projections are more accurate, the number of elementary schools servicing the Teton Apartments could be six (6) or even seven (7).

In summary, the choice of the developers to locate the Teton Apartments at the very epicenter of the south corridor elementary school overcrowding problem will effectively deny the young children residing in the Teton Apartments reasonable access to a neighborhood school. This result breaches the District’s General Policy Objectives and violates the sound educational practices of strong neighborhood schools which our community has treasured for more than a century. This need not be the result if the development is constructed in any one of several locations in the north or central school corridors where declining student populations are occurring.

Respectfully submitted,

s/ Doug Nelson
Douglas R. Nelson

Attachments to Letter: Exhibit JJ (Teton Apartments Impact on Elementary Student Space – Using Regular District Class-Size Caps and Comparable Student Estimates (Mr. Nelson’s Exhibit B)) and Exhibit KK (School District No.

91 Long-Term Planning Committee Final Report – January 20, 1999 (Mr. Nelson’s Exhibit A)) listed previously in Minutes.

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Following a brief recess at 11:50 p.m., Mayor ProTem Hardcastle called the meeting back to order by identifying the issues addressed thus far in the meeting:

- 1) Events from 1978;
- 2) Events from 1979;
- 3) Traffic Impact;
- 4) School Impact; and,
- 5) Ownership.

Robert Collette, 5238 South 11th East, appeared to state that he is a concerned and affected citizen and also appeared as a representative of the local School Board. He stated that he is not representing the whole group, just representing the tenor of the group with regard to the proposed development. Mr. Collette appeared before Council previously stating that the School District had not been adequately consulted during the planning phase of this apartment complex. Mayor Milam indicated at the time that the School District was involved in the planning process. Mr. Collette stated that the Mayor was misinformed and wanted to set the record straight. This apartment complex, if the City Council allows it to be completed, will completely overwhelm three of the south side elementary schools, Edgemont, Theresa Bunker and Linden Park. The ripple effects will go beyond those three schools. The document that was presented by the Planning and Building Director (which was faxed from the School District), does not represent a comprehensive planning undertaken by the School District. What the document represents is a single Administrator's effort to begin the process of what can be done with all of the children. Mr. Collette stated that as a School Board, 350-400 children cannot be placed into this area. He stated, further, that the School District can take care of these children, by shoving them, as sardines, into every last available space. Mr. Collette stated that there is a clear obligation on the part of the City to not only fill the letter of the law, but to go out of its way to assess the impact on schools and to make sure that everything is being done to minimize potential negative outcomes. Mr. Collette stated that an analysis is not required by the Subdivision Ordinance. The Local Land Use Planning Act allows for School Districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis. Mr. Collette contends that the School District was not aware of this project and was not invited to give any input on it. He stated that there was only one letter submitted to the School District addressing the proposed Teton Apartments (Exhibit J). Mr. Collette spent more than 6 months on the Long-Term Strategic Planning Committee that was convened by the School Board. They were charged with looking at long-range enrollment and physical facility needs for the School District and to provide suggestions to the Board on how to deal with the growing congestion of the south side schools. The Assistant Planning Director, Clinton Boyle, also sat on this committee. He provided good information. Ultimately, it was decided that a new school should be built. For a number of reasons, the school board did not take up that decision and boundary changes were made instead. Mr. Collette stated that the Teton Apartments issue was not discussed at all during the 6-month process for long-range planning. The City Council can stop this project.

Following a brief discussion regarding whether the School District Board Member who sits on the Planning Commission was aware of this development. Mr. Collette stated that he believed that this person was not made aware of the development. Mayor ProTem Hardcastle stated that the School District Board Member was aware of this development and sat in on that meeting.

Roger Black, 1683 Laguna Drive, appeared to state that the actions taken by the City at this point have blocked the neighborhood's rights as citizens. He was shocked

that the Mayor had chosen not to be at this meeting. Mr. Black submitted the following question for Council consideration: Do you feel comfortable that the City Attorney was present at this meeting in an obscure location after declaring that he may have a potential

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conflict of interest? Councilmember Lehto stated that the City Attorney recused himself. There is another attorney representing the City Council at this time for this issue. Councilmember Eldredge stated that the City Attorney is a public citizen and can be in attendance. Councilmember Rose stated that the City Attorney's presence does not have an impact on the future proceedings of this hearing. Mr. Black stated that the Mayor was aware of this development 14 months prior to the Council's acceptance of the Final Plat. Mr. Black submitted the following questions for Council consideration:

1. Why was no public input solicited or no public notice given?
2. Why did the Mayor usurp the Planning and Building Commission's authority to determine if the land was appropriately zoned?
3. Why did Mayor Milam make statements that indicate that this issue regarding the Teton Apartments was predetermined?
4. Why did Mayor Milam have contact with the Developer 14 months before the initial plat was submitted to Planning and Building for consideration?
5. Why did Mayor Milam violate her own stated policy and refuse to give public notice or request public input?
6. Was the meeting with Mr. Koss on January 28, 1998 a public meeting and were there minutes taken?
7. If these minutes do exist, where are they? Are they included in the Agency Record?

Richard Pedersen, 1650 Claremont, appeared to state that he is an affected citizen, and wanted to address traffic and safety issues that have not been addressed previously regarding this development. The Bonneville Metropolitan Planning Organization, including representatives from the State of Idaho, Bonneville County, and the Cities of Idaho Falls, Ammon and Iona have developed an Access Management Plan relative to traffic issues in compliance with Federal Highway Administration and State Highway and Transportation Guidelines. The local plan was finalized in March, 1998. Relative to traffic issues, the Management Plan states that a Traffic Impact Study is specifically concerned with the generation, distribution, and assignment of traffic to and from new development. The Plan indicates a complete Traffic Impact Study is required when:

1. New Developments or additions to existing developments are expected to generate more than 100 new peak-hour vehicle trips, total in and out vehicle movements.
2. In some cases, a development that generates less than 100 peak-hour trips should require a Traffic Impact Study if it affects local problem areas. These would include high-accident locations, currently congested areas, or areas of critical local concern.

The August, 1999 Capacity and Safety Traffic Study of 17th Street in Idaho Falls prepared for the Bonneville Metropolitan Planning Organization states specifically:

1. The intersections with significant accident problems on 17th Street are Curtis Avenue and St. Clair Road.
2. The intersection of St. Clair Road and 17th Street has a significantly high accident rate.

From the Planning and Building Director's Staff Report dated January 24, 2000:

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1. 157 Apartment Units will generate 91 vehicle trips during the peak hours of 4:00 p.m. to 6:00 p.m. These numbers are flawed as the parking area holds 352 parking spaces.
2. A traffic study is not required under the Subdivision Ordinance, and, therefore, the development complies with the Ordinance without a study. Traffic generation is addressed at the time the land use decision is made. In a memo dated January 13, 2000 from Patty Reines to Renée R. Magee regarding traffic forecast, the impact of the Teton Apartment complex suggests a directly related vehicle movement increase of 67% through the year 2005 at the St. Clair, 25th Street, Woodruff Avenue intersections. This will be significantly greater given the large number of vehicle parking spaces, more likely in the neighborhood of 90%.

Mr. Pedersen stated that his primary concerns are not necessarily for the vehicle occupants, but for those who must negotiate the increasingly hazardous intersections and those who cannot speak for themselves – the children who will live in the Teton Apartments and in the surrounding neighborhoods.

Dr. Rheim B. Jones, 2799 Sunnybrook Lane, appeared to present the following list of slides with his presentation:

- | | |
|----------|--|
| Slide 1 | Dr. Rheim B. Jones, MD, self-introduction |
| Slide 2 | Traffic Safety Serious Matter |
| Slide 3 | Photo of injured person |
| Slide 4 | Title 10, Chapter 1 – 10-1-5: Subdivision Standards (A) Local Ordinances |
| Slide 5 | Access Management Plan is City Code |
| Slide 6 | Access Management Plan is City Code, Traffic Impact Study is required when... |
| Slide 7 | 100 New Peak Hour Trips – Trip Generation Manual, 6 th Edition |
| Slide 8 | 100 New Park Hour Trips – Study of United States Department of Transportation, RMM-014-00, Page 4, Calculation |
| Slide 9 | 100 New Peak Hour Trips – Study of United States National Transportation Department |
| Slide 10 | Local Problem Areas – 17 th Street and Holmes Avenue, 17 th Street and Jennie Lee Drive, 17 th Street and St. Clair Road, 17 th Street and Woodruff Avenue, 17 th Street and Channing Way, 17 th Street and Ashment Drive, and 17 th Street and Hitt Road |
| Slide 11 | Traffic Accidents 1999 – January through November |
| Slide 12 | Local Problem Areas – St. Clair Road and Woodruff Avenue, St. Clair Road and Disney Drive, St. Clair Road and 25 th Street, St. Clair Road and 17 th Street, and St. Clair Road, 25 th Street, and Woodruff Avenue |
| Slide 13 | Local Problem Areas – 1999 17 th Street Traffic Study prepared for the Bonneville Metropolitan Planning Organization |
| Slide 14 | Local Problem Areas – What studies have been conducted subsequent to the improvement of 25 th Street with respect to accidents, traffic density, and peak hour traffic? |
| Slide 15 | Streets and Traffic Safety – Probable route of traffic for residents of Teton Apartments and the route neighbors would like to see the residents of Teton Apartments use. |

Slide 16
Slide 17

Local Problem Areas – Disney Drive

Local Problem Areas – Who will pay for increased costs of redesigning these intersections, signaling or realigning signals?

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Slide 18	Local Problem Areas – 1999 17 th Street Traffic Study prepared for Bonneville Metropolitan Planning Organization.
Slide 19	The City has Violated City Code
Slide 20	The City has Violated City Code
Slide 21	Traffic Impact Study Required by City Code
Slide 22	Final Plat is not in compliance with City Code
Slide 23	Thank You

Dr. Jones reviewed for Council his calculations of peak hour trips per day based upon other information as listed above. He stated that the Teton Apartment complex would cause major traffic accidents.

Councilmember Eldredge stated that the Bonneville Metropolitan Planning Organization's Access Management Plan is a guideline. It is not codified into law for the City.

Brian Stutzman, 3190 Disney Drive, appeared to state that he is a concerned citizen. He stated that he is disappointed that Mayor Milam is not present. Mr. Stutzman stated that this area requires a Traffic Impact Study in his neighborhood. According to the information given, all traffic will be exiting on St. Clair Road. He did not believe that St. Clair Road qualifies as a Class A street. Teton Apartments will make Disney Drive a collector street. Mr. Stutzman stated that these apartments should have an access to Woodruff Avenue, as that would alleviate some of the traffic moving down his street. He requested the City Council return this issue to the Planning Commission and require a Traffic Impact Study.

Kevin Stanger, 1564 Delmar Circle, appeared to question the City Council as to where in the Agency Record is there any indication that either the City Council or the Planning Commission considered the effects that this development would have on surrounding property values. He referred to the Affidavit from Blake Mueller, Bonneville County Tax Assessor stating that there is not another development like this in the State of Idaho to compare to. Mr. Stanger submitted the following letter from a local appraiser:

Piece of the Rockies, Inc.
January 25, 2000

Kevin Stanger
1564 Delmar Circle
Idaho Falls, Idaho 83404

Mr. Stanger:

After our phone conversation on the 24th, I have been doing some reflecting on the neighborhood factors you and your neighbors are experiencing, namely the construction of the Teton Apartments on Woodruff Avenue, St. Clair and 25th Street. My mind went back several years when many of the homes were being built in your neighborhood. The physical make up was much different. Woodruff Avenue dead-ended at Sunnybrook, Sunnyside was not as busy, 25th Street had not been expanded, and the hospital was much smaller. There was not the large office buildings, fire station and veterinary office, etc. However, there was the vacant field where the apartments are being built. Today there is still a vacant field on the corner of Sunnyside and Woodruff bordering your homes. It is zoned R-3A (Apartments and Offices). We are all sure that this field will not stay vacant for too many more years. I was specifically asked to

determine the market effect the Teton Apartments will have on the adjoining homes in the area. As we discussed, it is my opinion that the homes which do not have an actual view of the apartments should not be negatively affected.

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Your immediate area has undergone tremendous changes in the past few years. Sadly enough, none have been positive.

It is impossible at this time to determine from the market, the effect of the Teton Apartments. The market will be determined in the coming months and years as people estimate a market value, professionally marketing the property with a good Realtor. In a good marketing season (April to November), if these conditions are met and the home is on the market for an extended time, (Example: In 1999, the average marketing time in Idaho Falls was 136 days) or if it extends way beyond this time frame and lowering of the asking price (Example: In 1999, the normal selling price was 2% below listing price) far below the listing price is necessary, then we know the external factors are taking a toll on the property. Specifically those with visual factors of apartments, offices, etc. or bordering on the busy 4-lane Woodruff Avenue. In a court of law, any opposing attorney would ask your witnesses what is affecting the value more; Woodruff Avenue, offices, apartments, future development of the vacant lots bordering many properties, or the future expansion of Sunnyside, etc.

I hope you can understand the problem with an appraiser deriving a percentage that a property will lose in market value due to the Teton Apartments. There is no market data to hold up in a court of law at this time. However, it is my professional opinion that those properties affected visually by these new apartments or future apartments or offices to the south will be negatively influenced and market appeal and value usually or historically will decrease. The more expensive homes (\$200,000.00 to \$500,000.00) in the area probably will be hurt more than if the homes are between \$75,000.00 to \$200,000.00. If people cannot get what they want in an existing home, they will be willing to spend more money by building a new custom home. If a home has negative external or functional problems, they will tend to come down in price until a buyer realizes "this is a good deal!" or this property could never be replaced for this price. These types of things need to motivate the future buyer to want to assume the existing or future negative factors. Currently, there is only one home listed in the immediate area with the Teton Apartment influences. There are certain properties with positive factors which may offset existing negative external factors. There could be homes in your immediate area that have wonderful floor plans, high quality materials and attractive views, etc. that the buyer wants, no matter the negative external factors. I am sure there could be homes that fall into this category. We all hope in the future if homes in your area are marketed and sold, that the sellers will over the years have built up enough appreciation that a profit is realized.

So, in conclusion to answering your question, those homes with a view of the Teton Apartments in an appraisal done by me and my office would have a negative adjustment in the cost approach under external factors and in the sales approach under view. The adjustment could not be abstracted from the market, but most underwriters in the secondary market would require a minimum \$2,000.00 to \$4,000.00 minus or downward adjustment. That is the range I would utilize. This does not reflect the opinion of any other appraiser.

Again, all other negative factors such as future development or busy street influences would be adjusted for under location. The future sales in the area will determine the actual market effect on properties. It may come in the form

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of longer marketing times, reduction in sales prices or both. The degree of which will only be determined by the market. If I can assist you in the future, please feel free to contact me.

Respectfully,
s/ Monty Egbert
Monty Egbert

Mr. Stanger stated that several people will follow his testimony regarding how their homes have been affected, both by property purchasers backing out of deals, homes that have sold for less than the tax appraised value, and homes that are currently for sale that have lost all market interest. Mr. Stanger stated that he is a fourth generation resident of Idaho Falls. He chooses to live in the City and pay City amenities because of the perceived benefits City living brings him. Intrinsic of this is the understanding that the people that are elected will keep and protect these benefits. He stated that he hoped that the City Council would have the moral backbone to stand with their voting constituents and do what is right.

Jason Wood, Attorney representing approximately 40 of the affected homeowners, appeared to state that the District Court disagrees with the City in not allowing testimony regarding actual harm done to those affected. The City Council should allow testimony of actual harm done.

Doug Walker, 2329 Oaktrail Drive, appeared to state that he lives approximately 1 block northeast of the Teton Apartment development. Approximately two years ago, they entered into an agreement to purchase a parcel of land in the Legends development. Mr. Walker believes that he was harmed, in that the Teton Apartments came into being following their entering into this agreement. Mr. Walker stated that he and several others have backed out of their agreements since that time. He requested the City Council to instill in the residents of Idaho Falls, the American Dream and the pride of ownership.

Kim Girton, 1473 St. Charles Circle, appeared to state that no one buys a home with the hopeful expectation that their property values will go down. She stated that people turn to the Planning Commission for thorough review of past mistakes, learn from the mistakes, admit fault if necessary, and then make it right for the future growth and development of this City.

Mark Bennion, 1696 Claremont, appeared to state that he has been a resident of the area since 1985. He appeared to express his concern over water and sewer, principally water pressure. In 1995, the City installed a 450,000-gallon water tank at 25th Street and Coronado. The pressure has not increased. He requested to know how this would be affected by the Teton Apartments Subdivision.

Annette Schafer, 12632 North 45 East, formerly of 2891 Disney Drive, appeared to state that she put her house on the market in June, 1999. The appraised value for the house was \$109,426.00. She sold the house for \$82,000.00. Ms. Schafer submitted the Real Estate Purchase and Sale Agreement and Receipt for Earnest Money as evidence.

Jim Melton, 1551 Delmar Circle, appeared to state that the cost is passed on to the taxpayer. He questioned the City Council as to where the City or the Planning Commission, on the official record, considered the impact that the development will have upon the citizens and taxpayers living in the City of Idaho Falls. He requested copies of that record. Mr. Melton stated that there has not been full and complete public disclosure or public involvement, along with a lack of environmental assessment with regard to this development. He requested a copy of that record also. He requested the City Council to allow those present to be heard.

Dan Kahl, 2716 Laguna Drive, appeared to state that in 1995 he lived at 1993 Alan Street. He stated that in 1995, the Council was trying to rezone a piece of property at the intersection. Mr. Kahl stated that many of the affected homeowners did not receive

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notification of this rezoning. When he appeared at Council, the Mayor essentially told him that if he did not like the rezoning, he could move. So he did. He stated that he would not move again. He will fight City Hall from doing this again. He requested that the City Council listen to their constituents.

Councilmember Rose announced that the Applicant may provide rebuttal to any information and testimony that has been given.

Tim Hopkins re-appeared to offer response that has to do with the platting process. He requested Daryl Kofoed from Mountain River Engineering to answer to the issue of water pressure.

Daryl Kofoed re-appeared to state that the quality and quantity of water falls well within accepted DEQ standards. The City of Idaho Falls has an exemplary system that updates itself weekly.

Tim Hopkins stated that several citizens have focused their comments on traffic. He requested that Gary Funkhouser's CD and Report be admitted into evidence. He then asked Mr. Funkhouser to address the City Council.

Gary Funkhouser, Traffic Engineer with Earth Tech, 1299 North Orchard in Boise, Idaho, appeared to state that he was asked by the developer's representative to check if there were traffic issues and whether a Traffic Impact Study were needed in the area surrounding the Teton Apartment Subdivision. He agreed with the Planning Director on the use of the Institute of Transportation Engineer's Trip Generation Manual. This is the nationally accepted document for trip generation, unless local data can be provided that is contrary to this study. This is not the fact in Idaho Falls. With his analysis, he did not use the same category of apartment complex that the Planning Director had. He used a general apartment category. The numbers are slightly different, resulting in almost the same calculations. He calculated trip generation during the peak hour as .62 per unit, which would generate 97 peak hour trips. From existing traffic counts on the area roadways, it was determined that Woodruff Avenue had 6,950 and St. Clair Road had 2,500 vehicles per day. For the classification of these particular streets, a level of service "E", which is considered capacity is approximately 31,000 vehicles per day for Woodruff Avenue. For St. Clair Road, a level of service "E", would result in approximately 10,500 vehicles per day. With the Teton Apartments calculated into this, St. Clair Road would operate with approximately 2,700 vehicles per day. Both of these roadways will operate at about ¼ of the capacity level. Capacity level would determine whether a Traffic Impact Study was required. The conclusion was that the Access Management Plan calls for 100 vehicles per day before a Traffic Impact Study is considered. Looking at the roadways and the trip generation for this site, this development was not in that category and did not require a full Traffic Impact Study.

Tim Hopkins stated that some serious charges were also alleged with regard to property ownership. For a period of five years, the developer did have an option to purchase the property that is in question. That option was exercised on May 4, 1999. The deed for that property was dated July 14, 1999. The ownership of the property was either contractual or of record at all critical times to the final platting process. With respect to a hearing before the Planning Commission, the record will make clear that there was a plan presented to the Planning Commission. The School District Member on the Planning Commission was present at that meeting.

Councilmember Rose stated that the City Council would listen to surrebuttal from one or two of the petitioners to offer testimony on four specific issues that were addressed in the rebuttal:

1. Water – Water Quality and Quantity

2. ITD Trip Generation
3. Property Ownership regarding the option to purchase that was exercised on May 4, 1999 and the deed dated July 14, 1999

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4. Activities of the Planning Commission

Jason Wood stated that the petitioners would have two rebuttal witnesses.

Dr. Rheim Jones re-appeared to restate the calculations of the Planning and Building Director and the Traffic Engineer regarding peak hour vehicle trips. He stated that this is not a statistically valid study. His calculations used .77 trips per day, which would allow for more than 100 peak hour vehicle trips, thus requiring a Traffic Impact Study. Dr. Jones stated that according to the 17th Street Traffic Study commissioned by the City Council in 1999 prepared for the Bonneville Metropolitan Planning Organization, St. Clair Road and Woodruff Avenue have significant accident problems.

Dr. Roger Tall re-appeared to address the ownership issue. The option that was exercised on May 4, 1999 was the 15th option since 1995. Judge St. Clair stated that Teton Apartment Associates did not own the property until July 14, 1999. The invested liability for this piece of property was \$500.00, until they exercised the option on the 15th time when liability was increased by \$9,500.00. They have a much greater loss ahead of them.

Jason Wood re-appeared to state that Mr. Hopkins entered into the record Mr. Funkhouser's documents. Mr. Wood objected to this entry, as no new evidence was to be presented during rebuttal or surrebuttal.

Councilmember Rose stated that the public hearing was closed and the matter was returned before the City Council for discussion.

Councilmember Groberg questioned the Planning and Building Director regarding the difference between public hearings that are required for Preliminary Plats and this hearing for a Final Plat. The Planning and Building Director explained that this Final Plat is a short subdivision plat as defined under the Subdivision Ordinance and does not require a Preliminary Plat. Teton Apartments Subdivision is a one-lot plat. It is not 5 lots or greater, which would require a Preliminary Plat. The Planning and Building Director stated that there is no ordinance requirement for a public hearing on a plat; however, when large Preliminary Plats are considered and prior to an annexation request, public hearings are held.

Councilmember Groberg questioned whether the City is required to have a public hearing at both the Planning Commission and City Council level to approve a Final Plat. The Planning and Building Director stated that the Judge's decision for this Final Plat was for a public hearing to be held before the City Council. Ryan Armbruster stated that it is his interpretation that the Judge's order has stated that a public hearing will be held before the City Council. There has been no decision that says that a public hearing will be held before the Planning Commission and a public hearing before the City Council. The Judge ruled that because the petition had been filed requesting a public hearing before the City Council between the time the City Council approved the Plat and issued Findings of Fact, Conclusions of Law and Decision, the petitioners were entitled to a public hearing before the City Council.

Councilmember Groberg referred to the Council Meeting held in July, 1979 in which reference was made to some land that was not before the Council at that meeting. The owner stated that he would develop the land to the south as a planned unit development, which is the property under consideration. The Planning and Building Director stated that the records that were researched did not show a planned unit development proposed on this property. The motions in the 1978 and 1979 Council Minutes are for the R-3 Zone without a planned unit development overlay and the R-1 Zone without the planned unit development overlay. She explained, further, that the Teton Apartments Subdivision went before the Planning Commission on May 14, 1996, in which it was noted that this area did not have a planned unit development overlay and there were no public streets. The Planning and

Building Director stated that the Planning and Building Division has a Preliminary Plat completed by Richard Skidmore, Custom Land Development, in 1991 or 1992 that indicates that this area will be developed into single-family homes with

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a storm drainage area in between. A Final Plat was not submitted in conformance with the Preliminary Plat.

Councilmember Groberg questioned that if there had been an intention to have a planned unit development overlay on the Teton Apartments property, how would that have been recorded in the City records. The Planning and Building Director explained that the motion would have recorded that the zone would have been established with a planned unit development overlay. The City's record indicates that the zone was recorded and did not show a planned unit development overlay.

Councilmember Rose questioned whether the City Engineer had reviewed and approved the Final Plat for Teton Apartment Subdivision, Division No. 1 prior to the May 27, 1999 City Council Meeting. The City Engineer, 4930 East Loma Circle, appeared to state that he did review and approve this Final Plat prior to the May 27, 1999 City Council Meeting.

Councilmember Rose requested the Planning and Building Director to explain the correct standard for when a Traffic Impact Study is required. The Planning and Building Director stated that the Access Management Plan is a plan that was adopted by the Policy Board of the Bonneville Metropolitan Planning Organization, not by the City of Idaho Falls City Council or the City of Idaho Falls Planning Commission. It is used for a guideline. The Policy Statement, which is adopted by the City Council and made a part of the Comprehensive Plan, states that 200 trips during the peak hour require a Traffic Impact Study.

Councilmember Hardcastle requested a clarification as to why Blue Ridge Estates development required a Traffic Impact Study. The Planning and Building Director stated that the Blue Ridge Development has approximately 200 single-family detached homes and 35 single-family attached homes. Using the Trip Generation Manual by the Institute of Transportation Engineers, which was submitted as Exhibit 4, the average detached home generates 1.01 vehicle trips during the p.m. peak hour. For Blue Ridge, that calculates to more than 200 peak hour trips. The Planning and Building Director stated that the apartment complex would generate less than 100 peak hour trips.

Councilmember Groberg stated that he understood that there was a policy that addressed the use of an arterial street for these peak hour trips. The Planning and Building Director stated that when Staff begins to review a plat in the beginning of this process and the developer states that they want to have access to an arterial, a red flag is raised. With the Teton Apartments, there is no driveway or access to the arterial. The Planning and Building Director requested Exhibit 5 (Teton Apartments No. 1, Transcription of Portion of May 14, 1996 Regular Planning Commission Meeting Pertaining to Teton Apartments No. 1) and Exhibit 6 (Staff Report from May 11, 1999) be submitted for the record.

Councilmember Lehto questioned the Planning and Building Director about when the building permits were issued. The Planning and Building Director stated that the building permits were issued in early September, 1999. Councilmember Lehto questioned what zone condominiums could be placed in. The Planning and Building Director stated that condominiums could be built in zones from R-1 to R-3.

Following a brief recess, Councilmember Rose thanked those present for their patience and thanked those who testified. He stated that the public hearing and public testimony is closed. Due to the volumes of material that has been received, it was moved by Councilmember Rose, seconded by Councilmember Groberg, to recess this matter to the next regularly scheduled Council Meeting, which will be held on February 10, 2000 at 7:30 p.m. It will be considered for Council deliberation and Council discussion. This meeting will be held at the Civic Auditorium, 501 South Holmes Avenue. Roll call as follows:

Aye: Councilmember Eldredge
Councilmember Lehto

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Councilmember Rose
Councilmember Groberg
Councilmember Hardcastle

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Groberg, seconded by Councilmember Rose, that the meeting adjourn at 1:35 a.m.

CITY CLERK

MAYOR
