

**MARCH 18, 1993**

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The City Council of the City of Idaho Falls met in Regular Meeting, Thursday, March 18, 1993, in the Council Chamber, 140 South Capital Avenue, Idaho Falls, Idaho. There were present: Mayor ProTem Melvin Erickson; Councilmembers Larry Carlson, Joseph Groberg, Linda Milam, Gary Mills, and Ralph Wood. Absent: Mayor Thomas Campbell. Also present: Velma Chandler, City Clerk; Dale Storer, City Attorney, and all available Division Directors.

The City Clerk read a summary of the minutes of Special Meetings held March 9 and 16, 1993. The minutes of the meetings were approved.

The Mayor declared open a public hearing, as legally advertised, to consider the site plan for a proposed development at the NE corner of the intersection of East 17th Street and June Avenue. He called upon Councilmember Mills to conduct the hearing. At the request of Councilmember Mills, the City Clerk read the following memo:

City of Idaho Falls  
March 15, 1993

MEMORANDUM

TO: Mayor and City Council  
FROM: Rod Gilchrist  
SUBJECT: MARTIN'S ADDITION - LAND USE CHANGE

Attached is a copy of the site plan of the proposed development at the northwest corner of the intersection of East 17th Street and June Avenue. This property is located in the PT-2 Zone. It is currently occupied by two single-family residential structures and one vacant lot. The proposed use of the property will be a 6,000 square foot building to house Blockbuster Video. The site plan, as presented, meets all the design criteria required in the PT Zone.

The Planning Commission recently considered this matter at a public hearing. After much discussion, they recommended to the City Council, by a split vote, approval of the site plan with the condition there be no access onto June Avenue. Both Engineering and Planning Departments feel, if this proposal is to be approved, access onto June Avenue is a necessity, as requesting it only at 17th Street will create a serious traffic hazard. This matter is now being submitted to the Mayor and City Council for consideration.

s/ Rod Gilchrist

The Director of Planning located the subject area on a map on the wall and further explained the request.

Councilmember Mills reviewed the purpose of the PT Zone and read some of the definitions of same from the City Code. He then invited those in favor of this proposal to come forward and be heard at this time.

Mr. Jerry Meyers, Meyers and Anderson Architects, appeared representing the Developer and Blockbuster Video. He said that, in his opinion, this proposal meets, or exceeds, all requirements of the Code. He said that the "split" vote of the Planning Commission was due to the access to June Avenue issue, not because of opposition of the project. He said that other concerns registered at the Planning Commission meeting have been reviewed and resolved with the residents. The only concerns now are the hours of

operation and the June Avenue access. He said, further, that the developers are willing to work with the residents on the access problems, and reviewed several options for this.

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Mr. Steven Keim appeared representing the Developer. He said that he is impressed with Blockbuster's plans. He asked the Council to approve this proposal.

Councilmember Mills then invited those in opposition to this proposal to be heard at this time.

Mr. David Hart, 686 East 16th Street, appeared to strongly oppose this proposal. He said that a video store is not compatible to a residential area. A video store will be an encroachment of his investment for the future and he feels that it is time the residents of this area are considered. A business of this nature will impact many people during an undecided economic future. He registered concerns about the buffer zones, the unanticipated hours of operation, noise, lighting, and property devaluation.

Mrs. Opal Burt, 784 East 16th Street, appeared to oppose this proposal. She registered concern that teenagers will congregate at this type of business and this would create noise and litter problems. She suggested that the building be moved back with parking in the front.

Mrs. Julie Olsen, 582 East 16th Street, appeared to state that traffic is the major issue in this area. She said that this is a serious problem and it needs a lot of consideration.

Mr. Steven Brunt, 1630 June Avenue, appeared to state that the Martin Addition has protective covenants that should protect the residents from this type of operation. He pleaded with the Council to review the covenants and the proposals and then not allow this request.

Mr. Jared Fuhrman, 595 East 16th Street, appeared to state that he does not want to stop progress, but in his opinion, a video store will make a hangout for kids and many problems. He said that video stores can made for big problems. He asked the Council to come to a happy medium and put something in this location that will not be such a hangout for kids.

Mr. Richard McAtee, 646 East 16th Street, appeared to voice his concerns about the impact of additional traffic on June Avenue.

Mr. Matt Huffaker, 747 East 16th Street, appeared to state that traffic safety will be compromised if Blockbuster Store is constructed in this area. He said that crime will increase and it is time to separate residential and commercial zones.

Mr. Gordon Lassahn, 1731 Coronado, appeared to state that he is one of the owners of the property involved in this proposal. He said that the damage has already been done in this area and the Council must be fair for all concerned. He asked the Council to approve this proposal in order for him to sell his property.

Mr. Richard Rubert, 549 East 15th Street, appeared briefly to oppose this proposal. He cautioned the Council against following this proposal which, in his opinion will set a precedent for Wal-Mart to come back in on June Avenue.

Mr. Kevin Twitchell, 1580 June Avenue, appeared to state that he is the Chairman of Martin Addition Coalition. He said that the process used by the City in approving developments, seriously, needs to be improved. The needs of the residents are not addressed until very late in the process. He said that the current City ordinances are not designed to protect nor help the residents. He said that the Planning Commission does not address the needs of the residents either. He made some recommendations to approve the process. He explained to the Council the problems that would be encountered if this proposal is accepted, including the incompatible building heights, the non-complying wall signage and traffic hazards. He then asked for Council rejection of this land use permit.

Mr. Al Diamond, 764 East 15th Street, appeared to go on record as being opposed to this proposed Blockbuster building on this corner. He is disappointed with the monster that has been created on 17th Street and he asked the Council to deny this request.

Mrs. Julie Herbert, 777 East 16th Street, appeared in opposition to this proposal. She said that it will only bring problems and decrease property values.

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Mrs. Cindy Huffaker appeared to oppose this plan. She said that Blockbuster will attract the wrong crowd, decrease property values, add to the traffic problems, and make the area unsafe for the area residents. She pleaded with the Council to deny this request.

Councilmember Mills closed the hearing and asked the representative from Blockbuster Video if he wished to respond to some of the statements or questions that had been addressed.

Jerry Meyers re-appeared to state that, nationally, Blockbuster markets themselves as a family video store with no "X" rated videos. He does not anticipate the problem of teenagers or any others loitering in the parking lot, and promised that they will do everything within their power to discourage this type of action. He explained the reasons for the proposed placement of the building, traffic pattern, sign placement and buffers. He said that the proposal meets all ordinance requirements and suggested that, if there are problems, these be addressed towards the ordinance and the regulations that dictate the use of that property and not have it zoned one thing and then, conditionally prohibit the use that it was intended for.

City Attorney Dale W. Storer stated that the issue before the Council is whether the performance standards under the PT Zone will be met by this development. He addressed the factors that had been brought up by the residents that may have an affect on this issue, namely: 1) will this generate traffic in excess of the capacity of the streets; 2) the use of double buffers along non-arterial streets; 3) compliance with the ordinance as it pertains to wall signs; 4) the requirement that the building height be compatible with that of the surrounding uses.

Mr. Meyers gave the answers to Mr. Storer's questions: 1) he said that no counts have been taken, but they believe that the access that they are intending to construct will control the traffic; 2) there is a double buffer planned for June Avenue, by the parking lot, but they will comply, if necessary; 3) the only signage will be on an awning. He did not know the dimensions, but said that they will comply; 4) there are some houses in the area that are close to twenty foot in height - he cannot state exactly which nor how many meet the requirements. He said that the height of the building can be lowered if necessary.

Several Councilmembers asked the City Attorney for an explanation of the Zoning Ordinance provisions concerning building height, signage, access to arterial streets and the enforcement of protective covenants between the residents and the developers. The City Attorney gave his explanation on these matters. There being no further questions, it was moved by Councilmember Mills, seconded by Milam, that the Council deny this request as presented, upon the basis that the performance standards of the PT Zone are not being met. Mr. Mills further moved that authorization be given for the City Attorney and the Planning and Zoning Officials to prepare Findings of Fact consistent with the recommendation. Roll call as follows: Ayes, Councilmembers Wood, Milam, Carlson, Erickson, and Mills; No, Councilmember Groberg; carried.

Councilmember Milam stated that, during the testimony heard this night, there were several valid questions about some problems of the PT Zone as currently written. She requested the Planning and Zoning Officials and the Planning Council Committee take a serious look at the Ordinance to see if there are inconsistencies and/or problems that need to be addressed.

The Mayor called for a short recess.

Upon reconvening the meeting, the Mayor called upon Councilmember Mills to conduct Annexation Proceedings for Victorian Village Addition, Division No. 3. At the request of Councilmember Mills, the City Clerk read the following memo:

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City of Idaho Falls  
March 15, 1993

MEMORANDUM

TO: Mayor and City Council  
FROM: Rod Gilchrist  
SUBJECT: FINAL PLAT AND ANNEXATION - VICTORIAN VILLAGE  
ADDITION, DIVISION NO. 3

Attached is a copy of a Final Plat, Annexation Agreement, and Annexation Ordinance for Victorian Village, Division No. 3. This is a single-family subdivision and the requested zoning is R-1. The Planning Commission recently considered this matter at a public hearing and at that time, recommended annexation to the City, approval of the Final Plat, and initial zoning of R-1. This Department concurs with that recommendation. This matter is now being submitted to the Mayor and City Council for consideration.

s/ Rod Gilchrist

The Director of Planning and Zoning located the subject area on a map on the wall and further explained the request.

Councilmember Mills asked the representative of the Developer, Kim Leavitt from Harper-Leavitt Engineering, to further explain the proposal. He said that the plans were revised after criticism had been received at the Planning Commission level. They made for more affordable housing, blocked off some streets, changed the size of some streets and made changes in drain storage provisions. These changes have been reviewed and approved by the Planning Commission. He said that they are endeavoring to provide adequate streets through to Township Road. Councilmember Erickson asked if they intended to extend west to Rollandet.

Mr. Bob Utterbeck, the Developer, appeared to state that he does not own any property to the west, but he has four streets stubbed to the west for future availability.

Mr. Keener Earle, 177 Township Road, appeared to state that he sees high density platting all the way down to Township Road and he feels that this is not compatible with the environment along Township Road.

There being no further comment, it was moved by Councilmember Mills, seconded by Groberg, that the Council approve this Final Plat and authorize the Mayor, City Clerk, and City Engineer to sign same. Roll call as follows: Ayes, Councilmembers Milam, Carlson, Mills, Erickson, and Groberg; No, none; carried.

It was then moved by Councilmember Mills, seconded by Groberg, that the Annexation Agreement be approved and the Mayor and City Clerk be authorized to sign. Roll call as follows: Ayes, Councilmembers Carlson, Erickson, Groberg, Milam, and Mills; No, none; carried.

The City Attorney read the following Ordinance title:

**ORDINANCE NO. 2094**

AN ORDINANCE ANNEXING CERTAIN LANDS TO  
THE CITY OF IDAHO FALLS; DESCRIBING SAME  
LANDS AND DECLARING SAME A PART OF THE

CITY OF IDAHO FALLS, IDAHO. (VICTORIAN  
VILLAGE ADDITION, DIVISION NO. 3)

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The foregoing Ordinance was presented in title. It was moved by Councilmember Mills, seconded by Groberg, that the provisions of Section 50-902 of the Idaho Code requiring all Ordinances to be fully read on three several days be dispensed with, the question being, "SHALL THE PROVISIONS OF SECTION 50-902 OF THE IDAHO CODE REQUIRING ALL ORDINANCES TO BE FULLY READ ON THREE SEVERAL DAYS BE DISPENSED WITH?" Roll call as follows: Ayes, Councilmembers Mills, Erickson, Carlson, Groberg, and Milam; No, none; carried. The majority of all the members of the Council present having voted in the affirmative, the Mayor declared the rule dispensed with and ordered the Ordinance placed before the Council for final consideration, the question being, "SHALL THE ORDINANCE PASS?" Roll call as follows: Ayes, Councilmembers Milam, Groberg, Carlson, Erickson, and Mills; No, none; carried.

The Mayor then declared open a public hearing to consider the initial zoning of the newly annexed area. It was moved by Councilmember Mills, seconded by Groberg, that the initial zoning of Victorian Village, Division No. 3 be established as R-1 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 his office. Roll call as follows: Ayes, Councilmembers Carlson, Milam, Erickson, Groberg, and Mills; No, none; carried.

It was noted that the Developer of Westridge Addition, Division No. 1 had requested Annexation Proceedings for that area be recessed until April 8, 1993. It was moved by Councilmember Mills, seconded by Groberg, that these Annexation Proceedings be recessed until the next Council Meeting on April 8, 1993. Roll call as follows: Ayes, Councilmembers Groberg, Mills, Milam, Carlson, and Erickson; No, none; carried.

The City Clerk presented several license applications. It was moved by Councilmember Mills, seconded by Groberg, that these licenses be issued. Roll call as follows: Ayes, Councilmembers Milam, Carlson, Mills, Erickson, and Groberg; No, none; carried.

The City Clerk asked for Council ratification for the issuance of a Building Contractor License. It was moved by Councilmember Mills, seconded by Groberg, that the Council ratify this previous action. Roll call as follows: Ayes, Councilmembers Erickson, Mills, Groberg, Milam, and Carlson; No, none; carried.

The City Clerk requested authorization to refund a Non-Commercial Kennel License application fee. It was moved by Councilmember Mills, seconded by Groberg, that the Council authorize the refund of this fee. Roll call as follows: Ayes, Councilmembers Groberg, Milam, Carlson, Erickson, and Mills; No, none; carried.

The City Clerk asked for Council authorization to publish legal notices calling for public hearings on April 8, 1993. It was moved by Councilmember Mills, seconded by Groberg, that authorization be given as requested. Roll call as follows: Ayes, Councilmembers Carlson, Erickson, Groberg, Milam, and Mills; No, none; carried.

From the Municipal Services Director came this memo:

City of Idaho Falls  
March 15, 1993

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: CONSENT TO ASSIGNMENT - AIRPORT HANGAR LEASE

Attached are copies of the following documents:

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- 1). Consent to Assignment to West One Bank by Gary L. Voigt of Voigt's interest in an Airport Hangar Ground Lease.
- 2). Commercial Security Agreement between Gary L. Voigt and West One Bank for granting a security interest in Voigt's improvements located on the airport hangar ground lease.
- 3). Leasehold Security of Trust executed by Gary L. Voigt conveying his interest in the airport hangar ground lease to the trustee for the beneficiary-West One Bank.

All documents have been reviewed and approved by the City Attorney's Office.

Municipal Services recommends approval of the Landlord's Consent to Assignment and requests authorization for the Mayor to execute said document.

s/ S. Craig Lords

It was moved by Councilmember Milam, seconded by Groberg, that the Council approve this landlord's Consent to Assignment and authorize the Mayor to execute the document. Roll call as follows; Ayes, Councilmembers Carlson, Milam, Erickson, Groberg, and Mills; No, none; carried.

The Electric Department Manager submitted the following memo:

MEMORANDUM

TO: Mayor and Council  
FROM: G.S. Harrison, Manager  
SUBJECT: CITY PROPERTY, UPPER PLANT RESERVOIR  
(PETERSON/HANCOCK PROPERTY)

Attached for your consideration is a proposed lease agreement between the City and Bonneville County. The County has expressed as interest in improving this property, which is located on West River Road, for recreational purposes. This lease will allow for the County to develop and maintain a recreational area and boat launch facility.

The Electric Division recommends that the City Council authorize the Mayor to execute the lease. The City Attorney has reviewed the lease agreement.

s/ G.S. Harrison

Councilmember Groberg expressed a need for an escape clause in this agreement. Therefore, it was moved by Councilmember Groberg, seconded by Carlson, that the Council approve the leasing of this land, subject to the City Attorney negotiating a single escape clause to be included in this lease agreement. Roll call as follows: Ayes, Councilmembers Mills, Erickson, Carlson, Groberg, and Milam; No, none; carried.

There being no further business, it was moved by Councilmember Mills, seconded by Carlson, that the meeting adjourn at 9:40 P.M.; carried.

s/ Velma Chandler  
CITY CLERK

s/ Thomas Campbell  
MAYOR