

**AUGUST 10, 1976**

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Pursuant to a call by the Mayor the City Council of the City of Idaho Falls met in Special Session in the Le Baron Restaurant on August 10<sup>th</sup>, 1976, at 12:00 o'clock noon for the purpose of considering procedures for approval of plats within a one mile perimeter of the City of Idaho Falls, as well as any other business which might be deemed appropriate. There were present at said meeting: Mayor S. Eddie Pedersen; Councilmen Gil Karst, Paul Hovey, Tom Campbell, Jim Freeman, and Mel Erickson. Absent: Councilman Ralph Wood. Also present: Roy C. Barnes, City Clerk; Arthur Smith, City Attorney; Joe Laird, City Engineer; Rod Gilchrist, Building Administrator.

Noting the purpose of the meeting, the Mayor commented to the effect that, even though the decisions made by the City Council were normally of an administrative or executive nature, that governing group is also empowered, as in this instance, to act as a Board of Appeals. The Mayor then invited Councilman Karst, as Chairman of the Public Works Committee, to conduct the meeting. Karst explained that the Public Works Committee was seeking a future policy decision from the full Council as pertained to plat approvals where the affected land was within one mile of the City and asked the City Attorney for an interpretation of the State Law in this regard. City Attorney Smith explained that there is an existing State Statute, I.C. 50-1306, which, even though not too definitive, requires the City Council's approval and the City Engineer's signature on all plats involving land within one mile of the City limits. Smith continued by saying that any action taken at this time with reference to a plat decision would be of an interim nature, inasmuch as the applicable portion of the Local Planning Act of 1975 will become effective January 1<sup>st</sup>, 1977, unless, by mutual agreement between the City and the County, it be postponed until 1978, and at the time it becomes effective, the City and the County will determine an impact area and whose subdivision ordinance will control said impact area. He said this land use law will be more specific and give the City and the County much needed guidance.

Karst advised the Council that they were gathered together this day in special session to make two determinations; first, as previously indicated, a future policy on plats of the nature as heretofore discussed for the benefit, principally, of the City Engineer; second, consideration of a specific final plat known as Country Corner Estates, Division No. 1 where a conflict has apparently arisen between the City and the County because said plat was not in conformity with City subdivision standards. Karst said the Council has a right and a responsibility as pertains to property immediately outside the City, not only from the standpoint of good future planning, but, also, in fairness to those affected property owners who might some time in the predictable future, be annexed into the City, only to find that, because their area was developed in a substandard manner, they were faced with assessment expense through an L.I.D.

Asked for comment, City Engineer Laird pointed out that this City, like many others, is experiencing urban sprawl, and from an engineering and planning standpoint, enforcement of the City's subdivision ordinance would be preferable on such basic improvements as street right-of-way, water and sewer lines and surface drainage, inasmuch as the County has limited standards and inspection.

Asked for comment about existing procedure, City Planner Gilchrist said all plats within one mile of the City are presented, considered and, finally, approved or rejected by both City and County Planning Commissions. He said these Commissions do not make a practice of questioning or judging engineering details, but instead, concentrate on such factors as street alignment, street right-of-way and zoning. He said the County has no authority nor jurisdiction over utilities such as water and sewer, but instead, especially if it is a developed area, utility service is provided by a private utility company which has its own development standards as dictated by the PUC and the Board of Health.

Councilman Campbell questioned how the City Planning Commission could accept less than that required by the City in considering such plats.

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Present at this special session was Mr. Jim Ririe, Attorney for the Developer of the Country Corner Estates and also Messrs. Don Ellsworth and Rance Bare from the Engineering Firm of Ellsworth and Associates, also presenting the developer. Asked for comment, Don Ellsworth pointed out that a plat does not show the grade of a street; neither does it depict the accommodation for utilities. He reminded those present that these would be found in the improvement drawings which should not be confused with a plat. Ellsworth continued by saying that all the basic study by the Planning Commission is done on the preliminary plat. The Final Plat, reflecting such changes as may be necessary is more or less rubber stamped. He said the Country Corners Preliminary Plat has been approved by both Commissions. In answer to a question by Councilman Erickson, Gilchrist said the Country Corners Plat had been approved by the City Planning Commission without the approval of the City Council or the City Engineer but that this was handled no differently than all other plats in this category for a good many past years.

The City Attorney said the property owner should assume some obligation in this regard to see that all phases of development were handled in a legal manner.

Asked for his views, Attorney Jim Ririe said he would not care to comment on the general concept of plat handling. He said his only concern was his client, the Country Corner Developer, who during the early stages of development, had no reason to believe that proper law and procedures had not been followed. He said his mission was to extradite and clear him until the problem was resolved.

Karst said the Council had proceeded, in the past, in a confident manner, knowing that such plats had met with the approval of the City Planning Commission. Asked by Karst if he was concerned about City liability for not having such plats, in the past, approved by the Council and the City Engineer, City Attorney Smith answered in the negative on the grounds that the Statute was not that clear, especially from the standpoint as to how far the Council and the City Engineer could go in the field of plat approval. He said if the Council, for instance, were to have been too insistent on engineering and utility factors, they would have been inviting a test suit. Ellsworth concurred, adding that the City can't dictate a private utility as to the manner in which utilities are installed, especially if the grounds for said dictation are based upon no more than anticipation of future annexation.

Councilman Hovey registered an opinion to the effect that the City should have a right to control, within reasonable limits at least, a housing area being close to the City and the Council, in anticipation of the new law about to take effect, should lay down some cooperative ground rules. Gilchrist said the limit of said control, presently, is in instances where the City furnished said development with certain utility service such as sewer and/or water.

Smith said that, in his opinion, the City would have some control if utilities were so installed, or streets were so designed, drainage wise, so that said streets would, as a result, constantly be in a state of disrepair.

In answer to a question by Councilman Freeman, Karst said the City must assume that the County has very little interest in a cooperative effort in this regard. Councilman Hovey sited Esquire Acres as an example of a housing development that was annexed, even though certain phases of its development were sub-standard. In answer to a question by the City Attorney, Hovey said even though he favored a future policy of plat approval within one mile of the City, he couldn't see how the City could gain or accomplish anything by pursuing the fact that previous plats had not been so approved. Karst registered concern about the present law, in the event the City Engineer was directed to sign a plat against his better judgment. Smith suggested that, in such an event, the City Engineer might consider signing such plats but attaching an appendage, outlining his objections.

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The City Engineer was then asked to explain to the Council his objections to the Country Corner Estates Division No. 1 plat as presented. They were as follows: Only a 50' right-of-way width on Clary Avenue; ultimate alignment of Clary Avenue did not interest First Street at the existing intersection with Amy Lane; only a partial street right-of-way width on east end of Garnett, adjacent to the Darwin Murri property. Gilchrist explained to the Council the fact that the preliminary plat encompassed a larger area than that shown on Division No. 1 and the street alignment problem was evident in the preliminary plat but said problem did not extend into Division No. 1; therefore, Division No. 1 had been approved by both commissions. It was moved by Councilman Campbell, seconded by Erickson, that the City Council adopt a future policy whereby all plats covering land within a mile of the City be first submitted to the City Council for approval of continuity of street pattern, street widths and drainage provisions. Roll call as follows: Ayes, 5; No, none; carried.

Councilman Campbell then presented this notice:

**NOTICE OF REQUIREMENTS IN  
PREPARATION OF SUBDIVISION PLATS**

NOTICE IS HEREBY GIVEN that all plats of subdivisions within one mile of the City of Idaho Falls, Idaho, hereafter submitted to the Idaho Falls Planning Commission for its review and recommendation shall, in addition to all platting requirements established by law, conform to the comprehensive general plan and the subdivision ordinance of the City of Idaho Falls with respect to continuity of street pattern, street widths and drainage provisions.

THIS NOTICE IS GIVEN effective August 15, 1976, pursuant to Section 50-1306, Idaho Code.

ATTEST: s/ Roy C. Barnes  
City Clerk

s/ S. Eddie Pedersen  
Mayor

It was moved by Councilman Campbell, seconded by Erickson, that authorization be granted for the Mayor and City Clerk to sign this notice and, also, that the City Clerk be authorized to publish said notice in the Post Register. Roll call as follows: Ayes, 5; No, none; carried.

At this time Councilman Freeman asked to be excused.

The final plat of Country Corner Estates, Division No. 1 was then presented. Councilman Erickson asked at what point the developer recognized the fact that problems existed. Ellsworth answered by saying that the problems, as previously discussed, pertained primarily to the preliminary plat, rather than the final plat of Division No. 1. He said right-of-way had been approved by both Commissions, even though the City Engineer had registered objections. There was some general discussion as to what the Planning Commission was empowered to consider. There was also certain general discussion as to the history of this area in the early planning stage. In answer to a question by Councilman Karst as the City's position in the event this plat was rejected, the City Attorney said this was a political decision and if objection was based on something other than that covered by the Council action just taken pertaining to policy, a lawsuit might be invited. Mr. Ririe responded by saying that a lawsuit is not the answer but that consideration would be given to the fact that this plat was approved by a City appointed Planning Commission. City Engineer Laird reminded the Council that, on numerous occasions, he had been asked for his opinion and recommendations on plats involving land outside the City. He said that,

even though his recommendations may or may not have been honored, he had never been asked to actually sign the plat. The City Attorney observed that, in his opinion, in these

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instances, there was an obligation on the part of the developer who failed to follow the law, inasmuch as he was retaining engineers and attorneys who should have been aware of said law.

In the absence of further comment, it was moved by Councilman Campbell, seconded by Erickson, that this final plat of Country Corner Estates, Division No. 1 be approved and the City Engineer be authorized to sign. Roll call as follows: Ayes, 4; No, none; carried.

There being no further business, it was moved by Councilman Karst, seconded by Campbell, that the meeting adjourn at 2:30 p.m.; carried.

ATTEST: s/ Roy C. Barnes  
CITY CLERK

s/ S. Eddie Pedersen  
MAYOR

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