

June 5, 2018

7:00 p.m.

Planning Department
Council Chambers

MEMBERS PRESENT: Commissioners George Morrison, George Swaney, Gene Hicks, Joanne Denney, Brent Dixon, Margaret Wimborne, Darren Josephson. (7 present with 6 votes).

MEMBERS ABSENT: Julie Foster, Arnold Cantu, Natalie Black, Lindsey Romankiw

ALSO PRESENT: Planning Director, Brad Cramer, Assistant Planning Director, Kerry Beutler, Brent McLane, Mike Kirkham, Esq., and interested citizens.

CALL TO ORDER: George Morrison called the meeting to order at 7:00 p.m. and reviewed the public hearing procedure.

CHANGES TO AGENDA: None.

Minutes: Swaney moved to approve the Minutes for the May 1, 2018, Hicks seconded the motion and it passed unanimously.

Public Hearing:

1. CUP 18-004: CONDITIONAL USE PERMIT. CUP Message Center at CEI. McLane presented the staff report, a part of the record. Wimborne clarified and McLane agreed that this does not impact the existing sign and it will stay on the northern end of the campus. Dixon indicated that the existing sign is approved until 10 p.m. and asked when the time frame got shortened to 8 p.m. McLane indicated that schools must shut off their hours of operation sooner, and this application has asked for a change. Dixon asked if that change would apply to the existing sign. McLane indicated that the existing sign is already under the condition to stay on later, and the College is asking for the same rules as the current sign for the new sign.

Applicant: Todd Wightman, Director of Communications and Marketing of CEI.

Wightman indicated that next year will be the 50th anniversary as an institution and 1-year anniversary of CEI. Wightman stated that they are asking for the same adjustments they asked for on their existing sign, and they believe the sign needs to be that big to read the sign. Wightman stated that many colleges have a monument sign and they decided to do a monument sign that incorporates the Message Center. Wightman stated that they are trending to double enrollment by Fall to 1500 – 2000 students, as well as the community ed and work force training that trains over 12,000 people a year on top of the credit enrollment. Wightman stated that the public is renting the school's facilities for civic events and so they are becoming a community campus and this sign will be in tune with that and help to better promote the activities that are going on. Wightman stated that the two message centers will be simultaneously controlled. Wightman indicated that this sign is a branding thing and they want to brand the new community college on a busy corner and let people know that Idaho Falls has a community college. Josephson asked how they determined the placement of the sign, as some people will not be able to see the sign (S on Hitt, E on 17th). Wightman stated that it depends on how close you are to the intersection and they purposely backed it off 50', but not everyone will be able to see it. Hicks asked why they need the later operation hours and asked if the sign will be a night distraction. Wightman stated that he doesn't feel the sign will be a distraction. Wightman stated that the original sign has been running till 10 at night as they have classes that go until at least 10 and campus is still open. Wightman stated that if he got to choose he'd want the sign on longer as

there is so much traffic that they can promote things on that busy intersection. Dixon stated that the first lane of traffic will block the sign because it is down low. Wightman stated that they did consider that, and there would be a lot of things in the way no matter what they do. Wightman stated that based on car movement and time they would be able to see something.

Support/Opposition: No one appeared in support or opposition.

Morrison closed the public hearing.

Dixon indicated that in general this is a good idea, especially the extra hours of operation. Dixon stated that his only concern is the busy intersection that the sign is on and the distraction and possible accidents happening while reading the sign.

Morrison stated that generally the same people will go up and down that street and going different directions in different lanes and there will be enough exposure to read the sign.

Wimborne moved to recommend approval of an LED Message Board of 50 square feet and modified hours of operation from 7 a.m. – 10 p.m. for the College of Eastern Idaho, Josephson seconded the motion and it passed unanimously.

Swaney moved to approve the Reasoned Statement of Relevant Criteria and Standards, Dixon seconded the motion and it passed unanimously.

2. ANNEX 18-005: ANNEXATION/INITIAL ZONING.

A) Sunnyside -- Annexation/Initial Zoning LC, RS and R-1

B) Holmes – Annexation/Initial Zoning RE and RP.

Beutler presented the staff report, a part of the record. Swaney asked which portion they will deal with first. Beutler indicated that they have been advertised as one annexation, but it is split in two pieces to do separate motions. Wimborne clarified and Beutler agreed that they will have two separate motions for this one annexation. Dixon asked if all the things on the residential park area would qualify as Class A and if there will be 2 motions, why don't they do that section as Class A instead of Class B. Beutler indicated that they have advertised it as one large annexation of 60 acres and there is no harm in processing it as Category B and it has a higher standard and requires more work for Staff. Dixon asked Beutler which properties don't qualify for Category A. Beutler stated that it is the Monarch Daycare and the property on the corner of Grove and Sunnyside that is a daycare. Dixon asked if the owners were consulted to see if they had preferences for initial zoning. Beutler indicated that they sent letters to all property owners and held a public meeting to discuss the process and show the initial proposal and left contact information, so the property owners could suggest/request changes. Beutler stated that the owner of the property on Sunnyside and Springfield has indicated that they would prefer an LC designation versus an R2 designation, but due to the prior annexation proposal with R-3 and the concerns about the high-density zone, the staff felt that it would have the same concerns if they zoned that property LC, and so they felt R-2 was more appropriate. Dixon stated that the Commission asked for more information on who has existing agreements and City Services and the aerial photos are not legible. Beutler apologized and indicated that the aerials looked better before they were copied. Dixon asked if they can walk through that information. Beutler stated

that he is hesitant because whether they have utilities or not is not pertinent to the annexation question. Beutler stated that their eligibility comes from being enclaved by the City and they meet the definition in the Statute for eligibility.

Morrison opened the public hearing.

Applicant: City

Support: None.

Opposition:

Gary McDonald, 895 Summerfield Dr., Idaho Falls, Idaho. McDonald's home is south of the 3 lots designated as LC. McDonald indicated that he and his wife, and her daughter are disabled, and the family is mostly home bodies. McDonald was a contractor by trade and has been involved in similar discussions regarding Zoning. McDonald stated that as a project manager you must listen very closely to the concerns of the public and try to address those concerns. McDonald stated that his concern is LC, or multi-family/transient type development. McDonald stated that the increased vehicle and foot traffic would increase crimes of convenience. McDonald stated that he is also concerned about privacy and doesn't feel that the 6' fence would be adequate to preserve the privacy of the homes. McDonald stated that trash and noise levels will increase. McDonald voiced his concern about the facility on the corner of Sunnyside and Springfield that parks cars on the road. McDonald stated that the only access to a multi-residential development would be to the side street and that would become congested. McDonald stated that during rush hour they can sit for 5-10 minutes waiting for the traffic to clear enough to go out to the turn lane to merge with traffic going left and that traffic would increase. McDonald stated that they do have casual drive-by's and that could increase and increase crimes of convenience. McDonald stated that they are concerned that the property values will be impacted depending upon the final zoning.

Patrick Brady 314 E Sunnyside, Idaho Falls, Idaho. Brady stated his father bought property along Sunnyside and built on the property and when the sewer line was constructed he connected because it was environmentally correct. Brady indicated that when Sunnyside was widened they stubbed in a water line. Brady stated that the homeowners in the area see this annexation process as a taking. Brady stated that there is no expectation of improved services to the area, and the only assurance is that they will have high property taxes. Brady stated that the request to receive Idaho Falls Power is a burden that can be drawn out for an unreasonable amount of time. Brady stated that it will be a hardship to him and others on fixed incomes to have the higher taxes. Brady stated that the majority of the people are more than an acre in size and they will be designated as RE and it would be more appropriate to entitle them as Rural Estates and consider a more favorable property tax structure. Brady stated that the larger lots have amenities and those cannot be removed to lower the tax assessment. Brady indicated that the County residents that are receiving City services are paying a higher rate for those services. Brady stated that access and egress on Sunnyside road would be improved if there was more aggressive enforcement of traffic laws. Brady suggested leaving the traffic lights longer, so it would leave a breathing room for those attempting to access Sunnyside. Brady stated that he does not wish to receive City Water as it would be too expensive to water his property. Brady indicated that if they want to increase revenue they should annex Ammon and Iona as they attach to the City water treatment facility.

Swaney indicated that he is interested in having testimony about the annexation and Mr. Brady is giving a summary of complaints about problems that individuals have. Swaney stated that the issue is the annexation that has been presented and those comments should be presented and will be welcomed, but the unending complaints about his experience with the City of Idaho Falls is not appropriate.

Diane Beard, 3696 S. Holmes, Idaho Falls, Idaho. Beard stated that some of her neighbors that were interested and wanted to be present but had High School Graduation tonight. Beard stated that her area does meet the requirements of Category B annexation. Beard indicated that the word “Fair” has been used a lot. Beard stated that County residents get to use the parks, they get City services, but do not pay the same taxes as “City Neighbors”. Beard stated that City parks are used by non-City residents and there is now way to control who uses the City parks. Beard stated that she pays extra fee for use of the golf course and library card and she would be happy to pay another fee for her use of City parks. Beard stated that the initial argument was that most plots in this annexation were on City services. Beard stated that out of 51 parcels, only 11 receive 1 City service, either water or sewer, 4 parcels receive 2 services, and it is unclear about Rustic Lane and there are 8 parcels in that area. Beard stated that if they include Rustic Lane that is less than ½ of the 51 parcels that are using City Services. Beard stated that they do not need the City services and they are not a viable option for them. Beard stated that the two properties on the west side of the annexation that are half City/half County are now being classified as residential estate even though they don’t meet the minimum 1-acre requirement, but they are “close”, so the City has agreed to classify them as residential estate. Beard stated that the Category B Annexation that is now proposed less than 100 lots must be adjacent to the City, must be in the City’s area of impact and be less than 5 acres. Beard stated that she would like to be given the same consideration because she is “close” to 5 acres. Beard stated that the Staff lumped two areas with clearly separate issues into one annexation proposal. Beard brought up that the City has chosen to annex only part of the enclaved area, with the justification for not pursuing the east side of Holmes as there are water and sewer issues that are not resolved. Beard stated that the engineers have informed several of the people proposed for annexation that the elevation along Holmes Ave., is higher than their homes and they would not be able to drain into the system without installation of expensive pumps. Beard asked that the City separate the current annexation proposal into two separate annexations and when they can come up with a viable solution that is “fair” to all the residents along both sides of Holmes in terms of true and reasonable access to City Services then they can pursue annexation of the enclaved area.

Donald Rydalch, 890 Summerfield Circle, Idaho Falls, Idaho. Rydalch stated that he is discussing the Sunnyside Annexation. Rydalch stated that he has concerns pertaining to the walk throughs and non-motorized vehicles that would have connectivity. Rydalch is concerned about the connectivity to his residential neighborhood. Rydalch stated that there will not be connectivity with all the fences that are erected around the neighborhood between the residents and a commercial development. Rydalch stated that the maximum building height in R-2 Zone would be 24’. Rydalch is concerned about the asterisk behind the R-2 Zone and the exceptions allowed. Rydalch is concerned about height and hasn’t had access to all the possible exceptions. Rydalch stated that he would like R-2 over LC if there must be something built there. Rydalch read from the staff report: *“Access along Sunnyside Road will be restricted, so the properties will have to develop with the ability to have cross access from one parcel to another.”* Rydalch stated, paraphrasing from the Staff report, that Springfield Drive will have to carry some

commercial traffic to Sunnyside Road as Springfield Drive functions as a residential collector. Rydalch stated, again paraphrasing from the Staff report, that concerns have been raised about commercial uses and traffic being allowed in this area. Rydalch stated that Springfield Drive is currently congested. Rydalch stated that the State operated intermediate care facility on the corner of Springfield and Sunnyside that functions 24/7 and have 1-5 cars parked on the road always creates congestion. Rydalch feels that there will be traffic problems if an entry road was established off Springfield Drive.

Laura Grey, 810 E Sunnyside, Idaho Falls, Idaho. Grey owns the Monarch. Grey stated that this area has always been zoned commercial in the County, so there is no reason for people to be worried about all the extra traffic or extra crime, it is not any different that it has been for the last 70 years. Grey stated that Wallace Dairy has already been zoned commercial (LC) and Grey asked that their property be left as is, as a limited commercial building.

Rich Way, 925 Summerfield, Idaho Falls, Idaho. Way stated that the main concern is the exceptions that are available to the R-2 zone. Way stated that when the proposed plan came a year ago they proposed 70 apartments. Way stated that he believes that proposal will come again if the property owner can get the property sold and rezoned. Way stated that if they remove frontage onto Sunnyside, they should consider a frontage lane that would be able to access 5 of the properties and then they are limiting what would develop against their properties. Way stated that they are concerned about the traffic on Springfield. Way stated that the difference between R-1 and R-2 could make the difference in traffic. Way stated that the general concern for the neighborhood is traffic and congestion and the height of the buildings looking over their fences.

Kevin Call, 380 E Sunnyside, Idaho Falls, Idaho. Call stated that they have a 5-acre area and half of it has his home built on it and they annexed part at that time. Call stated that it was a sizeable cost to them at that time to put in the City sewer and City Water. Call stated that they left ½ of their property (approx. 2.5 acres) County for property taxes. Call stated that they are paying for the amenities they are getting from the City with their City parcel. Call stated that Mr. Brady was eluding to the fact that there is no benefit for them to be annexed into the City from the County, as they already have wells, and to buy Rocky Mountain Power out of their area is costly. Call stated that on his property taxes it would change them approximately \$3,000 / year to annex into the City from the County, and the benefits are not there for his property.

Morrison closed the public hearing.

Wimborne asked Beutler about the Sunnyside annexation. Wimborne asked if the cross-access agreements that would be required with the R-2 and LC properties would need to have access onto Springfield. Beutler stated that for development purposes there would have to be some sort of access onto Springfield. Wimborne asked about the questions regarding density and what the residents could be looking at for that lot. Beutler stated that the R-2 zone has a maximum density of 17 units per acre and the R-3, which was proposed 1 year ago has a maximum density of 35 units per acre. Beutler stated that the density is also affected by the requirement to provide storm drainage, parking, landscaping, etc., and it is rare that the property gets to the highest allowed density, unless they go vertical, but there is a height restriction in R-2 of 24'. Beutler addressed the confusion on the height and the exceptions to the height that were referenced by public. Beutler stated that there is not an exception to the height in R-2 Zone. Wimborne asked and Beutler agreed that the County has the parcel zoned R-2, so there wouldn't be a change of uses, and if it wasn't annexed, someone could still go in and do R-2 development. Beutler

agreed but added that due to sewer and water issues the development in the County would be improbable. Wimborne asked about the Holmes Annexation. Wimborne asked if the switch to RE for the back lots was to address the concerns that were raised at the last meeting regarding having 4-H Animals. Beutler agreed that RE will allow for some animal husbandry uses. Wimborne asked if the tax assessment is different for RE versus RP. Beutler stated that the assessment is whatever the County Assessor's Office values the property and does not relate to the zoning. Wimborne asked why the farthest south property is being included this time, instead of waiting until the area across the street is annexed. Beutler stated that they were asked by the Mayor and City Council to look at parcels that have services that were enclaved and begin the annexation at that point. Beutler stated that the very southern parcel is included because it does have a service. Beutler stated that it is different that the parcels to the East, that do not have any services. Beutler stated that there are water and sewer mains in Holmes, and there are no utilities or services to the Kinswood. Beutler stated that the Kinswood Estates is eligible for annexation as they are enclaved, and a Category A and they will likely come up in another phase of the annexation project.

Dixon asked on the Sunnyside Annexation what part of the orange parcel is R-1A and what part is R-2. Beutler stated that typically it is the southern portions that are R-1A and at one point had some type of agricultural use. Dixon asked if the City considered R-1 for the areas that are currently R-1A. Beutler stated that they did not consider R-1 because as the properties redeveloped they would redevelop as a whole, rather than individually and the back portions of the properties don't have separate access. Beutler stated that the City doesn't suggest having a property with two different zoning designations. Dixon asked if public safety of parking would apply to the State-run facility on the corner of Springfield and Sunnyside. Beutler stated that per Statute that if it is 8 or less individuals, as well as the staff that would serve those individuals, it is considered to be the same as any other residential unit and so they City has no review. Dixon asked about the problem with the sewer line in Holmes being higher than the properties that would need to be connected. Dixon asked if the City would pay for a lift station for an area or would the owner be required to purchase the lift station to connect to the sewer line. Beutler indicated that the developer/owner would provide the lift station. Dixon asked about the 3 properties that are going to have a RE designation and asked if there was any consideration of making an arrangement with the property owners to obtain RE then they would replat the City property and the annexed property to a single lot that would be greater than 1 acre and the whole parcel could be RE rather than two lots. Beutler stated that they did look at that, and when the parcels are combined they are not greater than 1 acre (3/4 acre). Beutler stated that the properties cannot be combined until they are annexed.

Swaney clarified and Beutler agreed. that there is no obligation if the annexation proceeds for any of the property owners to hook up to City sewer, City Water or to hook up to City power and the property owners can continue exactly the way they are.

Dixon suggested breaking the annexation into more than two portions. Dixon suggested considering the proposed R-1 zones (Yellow), then go to R-2, and go zone by zone. Wimborne asked why it would be necessary to break them up by zone, when they've been presented as two areas, and there are not significant changes in use with the proposed zones. Dixon stated that part of the reasoning behind the decision is localized to the properties. Wimborne suggested that the differences are designated by the zoning and the staff has made changes to address the issues and align them with the current zoning and uses in the County.

Denney indicated her preference to break it into two parts like staff has outlined instead of complicating it. Swaney agreed with Denney and indicated that there has been no opposition to the R-1 Annexation.

Dixon stated that the concern he has with the R-2 is too dense of a zone and the properties that have single residences on them should be zoned for single residence (R-1) rather than multi residence R-2 because they are looking at a higher density zone than the current use, and the neighbors are used to an R-1 use.

Dixon moved to recommend to the Mayor and City Council Annexation and Initial Zoning of the 5 properties west of Springfield Drive, with the 4 furthest west properties being zoned R-1 and the 1 vacant property next to Springfield Drive, be zoned R-2. The motion died for lack of second.

Wimborne moved to recommend to the Mayor and City Council approval of the Annexation of the Sunnyside Area with Initial Zoning of LC, R2 and R-1 as outlined by City Staff, Swaney seconded the motion and it passed 5-1. Dixon opposed the motion pursuant to his previously stated comments and motion.

Swaney moved to recommend the Mayor and City Council approval of the Annexation for the Holmes Area with initial zoning of RE and RP, as presented in the staff report, Hicks seconded the motion and it passed unanimously.

3. RZON 18-005: REZONE. Portion of Hatch Division 1 & 5, 1.28 Acres, R3A, R2, R1, to LC. McLane presented the staff report, a part of the record. Dixon asked if the pedestrian access would need to be a main access to the building. McLane agreed with Dixon and stated that it would have to be a primary access point to the facility. Dixon asked why they would require the shared access in the upper corner. McLane stated that the Access Management Plan would require the distance from an arterial for access onto the lot, as the current access points are not conforming to the current Access Management Plan and the current standards would have to be met if it redeveloped and that would push the access as far north and away from the intersection as possible. Dixon asked how they can require the neighbor to enter into a shared access. McLane indicated that the drive isle is not a full drive isle and it could be separated, but the City would require that it become one single access point. McLane indicated that they would encourage an access point onto the residential collector and eliminate the 2 access points onto 1st Street. McLane stated that one of their biggest concerns is the affect this development could have on the neighborhood. Wimborne asked if there would be an option to not access onto the neighborhood, but instead access 1st Street. McLane stated that the traffic movement on 1st Street is very difficult to maneuver. McLane stated that it would be difficult because there are so many access points, and they would recommend utilizing the residential street.

Dixon brought up the Walgreens on 17th Street and Holmes and indicated that the way it was worked out to minimize the impact on the existing residential, rather than allow the commercial access to a residential street, they put up a high wall and had some grass and trees on the residential side, and all the commercial was restricted to the arterials.

Swaney confirmed with McLane that however the property is reconfigured in the future it will have to meet the conditions, and the example McLane presented was just a possible concept. McLane agreed, and indicated that he gave that example to illustrate some of the development

standards and has no bearing on the proposed development for this property. Swaney confirmed and McLane agreed that the only thing before the Commission is a rezone to LC.

Dixon stated that if the rezone is approved they can come in with a plan and the Commission would never see it again because it would meet the zoning requirements and would be handled by the Community Development Services department. Swaney stated that there are a lot of permitted uses in LC that only owners of the property could ever conceive.

McLane stated that the development standards are going to apply to whatever the use would be.

Morrison opened the public hearing.

Applicant: Dean Mortimer, 7403 South 1st East, Idaho Falls, Idaho. Mortimer represents Commerce Properties Investments, LLC. That is the owner of the property. Mortimer stated that they have owned the office space since 1993. Mortimer stated that they have now purchased the two residential properties behind the business to protect the property and the neighborhood. Mortimer stated that they have tried to be good neighbors and they understand the importance of protecting the neighborhood and protecting and upgrading properties. Mortimer stated that the property has reached its useful life. Mortimer stated that they have had requests over the last few years to change the property into another type of use. Mortimer stated that the office space has gone through a transition and it is not attracting the type of tenant that will justify much of a rent. Mortimer stated that they need to change the zoning to make the property more useful and upgrade it to a more attractive appearance. Mortimer stated that the impact on the neighborhood is an important issue. Mortimer stated that it is important to realize that the LC Zone does have some inherent protections. Mortimer stated that the house that will be affected the most is the house to the north that will require the 8' buffer. Mortimer stated that with the buffer the property will not be impacted much with the change to LC. Mortimer stated that over the last year they took one of the access points onto 1st Street out. Mortimer recognized that there is difficulty in the traffic in that area and the hazards. Mortimer stated that his intent is to expand the parking, as there is currently not enough to accommodate the amount of office space that is available. Mortimer stated that the LC Zone is a good use for the property.

Dixon asked if Mortimer was familiar with the Walgreens at 17th and Holmes. Dixon stated that it prevents any traffic from the commercial going into the residential. Dixon asked Mortimer if a solution like that would work for his intended use. Mortimer believes that area is different, as the access itself on the Walgreens piece is a lot farther West, and Walgreens has two access points one on Woodruff and one on 1st Street. Dixon indicated that he is talking about the Walgreens on 17th and Holmes. Mortimer stated that you must have two access points and whether that is on 1st Street and Woodruff if you don't come off Carol. Mortimer stated that with the LC Zone there is someone with a proposed use, and the use they are proposing will need the access off Carol and an access off Woodruff and nothing off 1st Street, as that was recommended by staff.

Wimborne indicated that there is a letter received that goes with the packet. Morrison indicated the letter will be included with the record.

No one appeared in support.

Opposition:

Robert Collins, 160 Carol, Idaho Falls, Idaho. Collins stated he bought a house in the neighborhood that is directly across from the proposed access point on Carol, and that will affect the driveway of Collins and Eva Hines. Collins stated that the whole neighborhood will be affected by the traffic. Collins stated that he has a big window that faces Carol and he doesn't want to look at a wall. Collins indicated that he urges the Commission to deny the LC Zone.

Eva Hines, 130 Carol Ave., Idaho Falls, Idaho. Hines stated that it is difficult to get out from Carol Ave., onto 1st Street. Hines stated that if there is more traffic it will be more difficult for everybody. Hines stated that it is a family neighborhood and the families and children walking around need to be considered. Hines stated that they need to consider the noise factor. Hines stated that Maverick on the corner has kept her awake from the noise of engines and loud music. Hines stated that if people start parking on the street it will use up any parking she might have for guests at her house. Hines stated that the street is narrow.

Morrison closed the public hearing.

Josephson asked McLane if it would be possible to end Carol for through traffic and allow an exit for the property onto 1st Street. McLane stated that not with this proposal as this is just a rezone of the parcels, and that is contrary to the connectivity plans of the City and for emergency vehicles. Josephson asked if they could not allow traffic to turn left. McLane stated that you cannot put it as a condition of the property, but that is something that they could look at as a development on the property, but that is not something they can put a condition on the rezone.

Dixon stated that the comment Josephson made has been done and is now the west entrance into Lowes. Dixon stated that it is one way into the neighborhood to prevent through traffic. Dixon stated that these actions were done prior to the current Planning Director, and these issues were addressed and approved and put into place. Dixon stated that these types of remedies are not being considered by the Staff and are instead advising more standard access points.

Dixon moved to recommend to the Mayor and City Council the proposed rezoning in a manner that results in a situation similar to that of the Walgreens property at the corner of the two major arterials of 17th Street and Holmes.

Wimborne stated that she understands what Commissioner Dixon is trying to do, but the Commission doesn't know anything as far as the engineering of the Walgreens property, but Wimborne is not comfortable with a motion that is contingent on another piece of property when the Commission doesn't know some of the engineering issues and other considerations.

Dixon stated that he can provide some of the information. Dixon stated that you have a full block of depth. Mike Kirkham, Esq., indicated that the hearing on this is closed and they would need to reopen the hearing if they are going to introduce more information. Kirkham indicated that this is a quasi-judicial hearing and so part of that is that the Commission is limited to the record that has been introduced and the hearing has been closed and the Commission is now in discussion. Kirkham stated that the information that is being proposed to introduce into the record cannot be brought as the hearing is closed. Dixon stated that he brought up the information before the hearing was opened with the expressed interest of letting the audience comment on it. Dixon stated that this Commission is not the deciding body, only recommending, so he doesn't feel that it is quasi-judicial. Kirkham stated that they are making a decision to recommend something to

the Council. This is local land use planning issue. Dixon stated that he brought up the issue before the hearing even opened with the express intent. Kirkham stated that if he brought up information before the hearing opened, then it is outside of the record and you shouldn't be considering it. Dixon clarified that it was on the record, before the hearing was open for public comment, but during the presentation of the item. Wimborne agreed that Dixon did bring up this issue. Dixon continued that the Walgreens is a block wide on a corner of two major arterial, there is a commercial property that seems to do fine with vehicles getting in and out on the two access points, and one is a shared access point and the other access point is on the other arterial. Dixon stated that next to 16th Street there is a wall and then landscaping on the 16th Street side of the wall that basically makes $\frac{3}{4}$ of the depth of the block devoted to the commercial and $\frac{1}{4}$ of the block the landscape buffer on the other side for the residential.

Cramer indicated that he knows what Dixon is talking about and there are some differences, including the overlying zone which allowed consideration of those things. Cramer stated that his concern with the motion is it is a motion to recommend approval of a rezone with a condition, and the code isn't set up to do that, you must either recommend approval, or recommend denial. Dixon stated that the zone was a planned transition zone as part of changing the use as part of the planned transition zone they had a hearing and part of it included buffering with the residential and part of it included access and that was the agreement that was proposed as part of the change, so how does the Commission get to that point in this case. Cramer stated that you recommend the approval of the rezone with a planned transition overlay on it, and that would create the planned transition so that a sight plan would come back for review. Cramer stated that wasn't advertised as part of the hearing. So, the motion would recommend the rezone with the inclusion of a planned transition overlay. Dixon asked if there would be another hearing to see what is being developed. Cramer stated that the new Code does not require a public hearing, only an administrative review to make sure it meets the requirements.

Wimborne asked if the Planned Transition Overlay would address issues regarding access. Cramer stated that it wouldn't address it in a manner that is different than this Zone because the new Code refers everything back to the Access Management Plan.

Dixon asked if the ability to get into a situation where the Commission could consider an approach that did work in the past and is continuing to work is something that the Commission doesn't have the ability to get to today. Cramer agreed, and added that even if the Commission could get to that point, it would still be based on engineering review and best practices, which is what the Access Management Plan is supposed to be. Cramer stated that if the Access Management Plan permits an access onto 1st Street, that is an option, but if it doesn't they must find an alternative. Cramer stated that Staff was suggesting not to have access onto 1st Street, based on the Access Management Plan, and it will be reviewed at a site plan level with planning and engineering and the developer. Dixon asked if the Access Management Plan overrules the zone when the zone says access onto major streets. Cramer stated that is a purpose statement of the zone, not a requirement.

Hicks asked if it would be proper to have the neighbors and developer get together to come up with a better agreement. Cramer disagreed with Hicks, as a rezone is not a negotiation of the site development plan, because they may negotiate something and then the property gets sold and the property has a zone and they can do whatever is allowed in the zone. Cramer stated that you need to look what is the Commission comfortable to live with.

The Motion died for lack of second.

Swaney reiterated Staff in saying that the Commission is only considering a zone change, and the access onto or off Carol is irrelevant because the developer will have to meet City standards regardless. Swaney stated that the only question before the Commission is the rezone of 4 parcels into one LC Zone.

Swaney moved to recommend to the Mayor and City Council approval of the rezone from R3A, R2 and RP to LC, as presented.

The Motion died for lack of second.

Dixon moved to recommend to the Mayor and City Council approval of the rezone from R3A, R2 and RP to LC with a Transition Overlay, Josephson seconded the motion. The motion failed 2-4.

Wimborne moved to recommend to the Mayor and City Council denial of the Rezone from R3A, R2 and RP to LC for the property as presented, Hicks seconded the motion. The Motion tied 3-3. Morrison voted against the motion, as the tie breaker, Motion failed.

Wimborne moved to recommend to the Mayor and City Council approval of the Rezone from R3A, R2 and RP to LC, Swaney seconded the motion. The motion failed 2-4.

Mike Kirkham indicated that the condition of Roberts Rules of Order, where the person that makes the motion must vote for it does not apply and the Commission is not bound by. Thereby, Wimborne can vote against the motion she made.

Hicks asked if the application can be rejected as submitted and requested for a resubmittal with further clarification. Cramer stated that they need to act on the application that is before the Commission.

Kirkham stated that the Commission can reject, and the applicant can re-apply. Cramer stated that the Commission can reject it and the applicant can still move forward to City Council. Cramer stated that they can recommend that only a portion of the area be rezoned. Cramer stated that the Commission must take action, and the applicant has the option to either come back to the board with a different plan or take it to City Council with the Commission's recommendation. Dixon stated that City Council will recognize that this is a case where the Commission is not giving them a unanimous recommendation and the decision is ultimately theirs.

Dixon moved to recommend to the Mayor and City Council approval of the rezone for the west 80% of the subject properties to LC.

Motion died for lack of second.

Swaney moved to recommend to the Mayor and City Council denial of the Rezone from R3A, R2 and RP to LC, Denney seconded the motion. The Motion passed 4-2.

Wimborne commented that the LC Zone makes sense for this property and her concern is access onto Carol. Wimborne stated that there was no way to limit that with what they were presented tonight.

5 Minute Recess.

Business:

4. ANNEX 18-006: ANNEXATION/INITIAL ZONING. T&T Park. McLane presented the staff report, a part of the record.

Swaney moved to recommend to the Mayor and City Council approval of the Annexation and Initial Zoning of I&M as presented for T&T Park, Josephson seconded the motion and it passed unanimously.

5. PLAT 18-014: FINAL PLAT. T&T Park. McLane presented the staff report, a part of the record. Dixon asked if the sliver to the south would be wide enough to have a street to get to the interior of the property, or if in the future they could take some of the property to make a street. Dixon asked if the plat needs to have an easement on it for future streets. Beutler stated that they met with the property owners and are talking through cross access easements, so they can have shared access at that point, and there would not be a developed street section. McLane added that they try to line up access points, so they are across from each other and the location of that sliver is right between the two roadways and not ideal for access.

Applicant: Daryl Kofoed, 101 S. Park Ave., Idaho Falls, Idaho. Kofoed stated that there is a parcel that is 50' wide and then bigger on the back and some point in time it will develop a road system that goes all the way back through and it won't be needed, but they will gather more property first. Kofoed stated that Napa Auto Parts farther south left 60' to make an access in and out. Kofoed stated that if it is needed they agree to modify the plat and share access.

Dixon moved to recommend to the Mayor and City Council approval of the Final Plat for T&T Park, Wimborne seconded the motion and it passed unanimously.

6. PLAT 18-017: FINAL PLAT. Linden Trails Division 1 First Amended. Beutler presented the staff report, a part of the record. Dixon asked if the properties on the west side will impinge upon the next division. Beutler indicated that there are no conflicts as far as setbacks. Beutler stated that they have reviewed the PUD for all the open space to make sure they maintain all the original percentages that were part of the original approval. Dixon asked if the movement towards Pancheri will affect the development of Pancheri. Beutler indicated that there is a large detention pond that is proposed and constructed and there is sufficient space for Pancheri.

Wimborne moved to recommend to the Mayor and City Council approval of the Final Plat for Linden Trails Division 1 First Amended, as presented, Dixon seconded the motion and it passed unanimously.

7. PLAT 18-010: FINAL PLAT. Linden Trails Addition Division 3. Beutler presented the staff report, a part of the record

Swaney commended the developer on reducing the density of the development

Swaney moved to recommend to the Mayor and City Council approval of the Final Plat for Linden Trails Addition Division 3 as presented, Wimborne seconded the motion and it passed unanimously.

8. PLAT 18-011: FINAL PLAT. Linden Trails Addition Division 4: Beutler presented the staff report, a part of the record.

Dixon moved to recommend to the Mayor and City Council approval of the Final Plat for Linden Trails Addition Division 4, as presented, Wimborne seconded the motion and it passed unanimously.

Morrison adjourned the meeting.

Respectfully Submitted

Beckie Thompson, Recorder