

**June 25, 2020**

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, June 25, 2020, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

**Call to Order:**

There were present:

Mayor Rebecca L. Noah Casper  
Councilmember Michelle Ziel-Dingman  
Councilmember Thomas Hally  
Councilmember Jim Freeman  
Councilmember Jim Francis  
Councilmember Shelly Smede

Absent:

Councilmember John Radford

Also present:

All available Department Directors  
Randy Fife, City Attorney  
Kathy Hampton, City Clerk

**Pledge of Allegiance:**

Mayor Casper requested Chandra Witt, General Services Administrator, to lead those present in the Pledge of Allegiance.

**Public Comment:**

Mayor Casper requested any public comment not related to items currently listed on the agenda or not related to a pending matter. No one appeared.

**Consent Agenda:**

Public Works requested approval of Bid Award – Storm Drain Improvements – 2020; and, Bid Award – Park Avenue Water Line B Street to Constitution Way.

Municipal Services requested approval of Bid IF-20-21, Purchase of Substation Transformers for Idaho Falls Power; Quote 20-34, Purchase of Primary Cable for Idaho Falls Power; and, license applications, all carrying the required approvals.

It was moved by Councilmember Smede, seconded by Councilmember Dingman, to approve, accept, or receive all items on the Consent Agenda according to the recommendations presented. Roll call as follows: Aye – Councilmembers Hally, Smede, Dingman, Freeman, Francis. Nay – none. Motion carried.

**Coronavirus (COVID-19) Update:**

Mayor Casper stated 220 cases were reported for June 25. Per Governor Brad Little’s press conference, Idaho will remain in Stage 4 for an additional two (2) weeks. This stage allows for most events with consideration of social distancing and accommodations for vulnerable individuals. This stage does not preclude any gatherings although Mayor Casper recommended caution for any July 4 plans in the public setting. Mayor Casper stated decision-making for closures or rollbacks to previous stages will be made in a de-centralized fashion which includes authority from cities, counties, and, health districts within their jurisdictions. She noted cases in Bonneville County do not meet the statistical level of closure consideration. The area will be reviewed although there will be no

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decision of closures without consultation of hospitals, Eastern Idaho Public Health staff, and, County officials. Mayor Casper noted schools will open in the fall if there is a handle on this, which would be best for the economy. To the response of Councilmember Freeman, Mayor Casper stated the Unified Command is still meeting as needed.

**Regular Agenda:**

**Community Development Services**

**Subject: Public Hearing – Annexation and Initial Zoning of HC, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: 96.053 Acres, E1/2 SE1/4, Sec 6, T2N, R38**

For consideration is the application for Annexation and Initial Zoning of HC, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: 96.053 Acres, E1/2 SE1/4, Sec 6, T2N, R38. The Planning and Zoning (P&Z) Commission considered this item at its June 2, 2020 meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Community Development Services Director Brad Cramer reviewed Idaho code for annexation. Annexation is a legislative decision for the City to see if the City is willing to service the property. The application of the zone is the primary purpose of the hearing to see if the zone makes sense to the area and what is allowed in the zone. This is not looking at what the developer is proposing.

Director Cramer presented the following:

Slide 1 – Property under consideration

Slide 2 – Aerial photo of the property under consideration

Slide 3 – Additional aerial photo of the property under consideration

Slide 4 – Comprehensive Plan Future Land Use Map

Director Cramer stated the Comprehensive Plan (Comp Plan) does not follow property lines. The Comp Plan is used to determine what type of things would occur around the property. Staff believes this is an appropriate annexation as there is a major interchange with HWY20 and with a significant amount of surrounding land it would most likely develop as commercial land use. Director Cramer stated this is a Category A annexation as the owner has requested to be annexed.

Mayor Casper requested any public comment. Seeing none, Mayor Casper closed the public hearing.

Councilmember Francis emphasized this was unanimously approved by P&Z.

Mayor Casper re-opened the public hearing due to an online individual.

Paul Hilbig, a representative of the applicant, provided testimony by WebEx. Mr. Hilbig stated he is working with Bish's RV as a developer and was available for any questions from the Council. There were none.

Mayor Casper requested any other public comment. Seeing none, Mayor Casper re-closed the public hearing.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Ordinance annexing 96.053 Acres, E1/2 SE1/4, Sec 6, T2N, R38 under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Freeman, Francis. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3312

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AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 96.053 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 96.053 Acres, E1/2 SE1/4, Sec 6, T2N, R38, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally. Nay – none. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to assign a Comprehensive Plan Designation of Commercial and approve the Ordinance establishing the initial zoning for HC under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Smede. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3313

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 96.053 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of HC and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Freeman, Francis. Nay – none. Motion carried.

**Subject: Final Plat, Development Agreement and Reasoned Statement of Relevant Criteria and Standards, Bish's RV Subdivision**

For consideration is the application for the Final Plat, Development Agreement and Reasoned Statement of Relevant Criteria and Standards for Bish's RV Subdivision. The Planning and Zoning Commission considered this item at its May 5, 2020, meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Councilmember Francis expressed his appreciation for the details in the Final Plat.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Development Agreement for Bish's RV Subdivision, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to accept the Final Plat for Bish's RV Subdivision, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows: Aye – Councilmembers Freeman, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

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It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Bish's RV Subdivision, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

**Subject: Public Hearing – Rezone to remove the Planned Unit Development (PUD), Zoning Ordinance, Reasoned Statement of Relevant Criteria and Standards, Lots 17 and 18 and portions of Lots 19 and 20, Block 1, 2nd Amended Lorin C Anderson, Division No. 1**

For consideration is the application for the Rezone to remove the PUD, Zoning Ordinance, and Reasoned Statement of Relevant Criteria and Standards, Lot 17 and 18 and portions of Lots 19 and 20, Block 1, 2nd Amended Lorin C Anderson Division No. 1. The Planning and Zoning Commission considered this item at its June 2, 2020 meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Director Cramer presented the following:

Slide 1 – Description of the PUD and the underlying zone

Director Cramer stated overlays are no longer used. He stated removing the PUD does not change the allowed uses but it does remove some of the flexibility of the property.

Slide 2 – Aerial photo of the property under consideration

Director Cramer noted the property is currently vacant.

Slide 3 – Comprehensive Plan Future Land Use Map

Director Cramer stated the LC zone currently exists and this request is to remove the overlay. The land use will remain the same and the development standards will change slightly. To the response of Councilmember Smede, Director Cramer stated in a zone with no overlay, buildings are required to be a certain distance apart and away from the street but in a PUD that distance can be flexible. The height restrictions are the same for a PUD and LC. A PUD requires amenities and LC does not. To the response of Councilmember Francis, Director Cramer stated the roads will be City-maintained.

Mayor Casper requested any public comment. Director Cramer noted there was no online participant. Mayor Casper closed the public hearing.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Ordinance Rezoning Lots 17 and 18 and portions of Lots 19 and 20, Block 1, 2nd Amended Lorin C Anderson, Division No. 1, under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Smede. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3314

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE REZONING OF LOTS 17 AND 18 AND PORTIONS OF LOTS 19 AND 20, BLOCK 1, 2ND AMENDED LORIN C ANDERSON DIVISION NO. 1 AS DESCRIBED IN SECTION 1 OF THIS ORDINANCE FROM LC ZONE WITH A PUD OVERLAY ZONE TO LC ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Reasoned Statement of Relevant Criteria and Standards for the Rezone to remove the PUD of Lot 17 and 18 and portions of Lots 19 and 20, Block 1, 2nd Amended Lorin C Anderson Division No. 1, and give authorization for the Mayor to execute the

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necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally, Smede, Dingman. Nay – none. Motion carried.

**Subject: Public Hearing – Annexation and Initial Zoning of R1, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards M&B: 4.63 Acres, SE 1/4 of the SE 1/4 of Section 31, Township 2 North, Range 38 East**

For consideration is the application for Annexation and Initial Zoning of R1, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: 4.63 Acres, SE1/4 SE1/14, Sec 31, T2N, R38E. The Planning and Zoning Commission considered this item at its April 21, 2020 meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Councilmember Francis noted although some of the individuals in this proposed annexation are former students he does not have a current relation with them and he has no financial interest in this item.

Director Cramer presented the following:

Slide 1 – Property under consideration in current zoning

Director Cramer reviewed the timeline of the item as he noted the memo and the ordinance refer to R1 zoning. He stated this item was considered by P&Z in April with the request of Traditional Neighborhood (TN) zoning. This was not a public hearing. P&Z unanimously recommended approval of TN and City staff concurred with that recommendation. Director Cramer stated TN is a new concept and can fit in low-density and high-density areas due to the required development standards. In May, the P&Z considered the preliminary plat in a public hearing which was very contested by surrounding property owners although most of the comments were related to the zone and, the questions were raised why there was no public hearing. Director Cramer stated the law was then reviewed to make sure staff was doing things properly. This property was brought back for a public hearing on June 2 with a lot of testimony related to the traditional neighborhood in the area. On June 6, the developer/applicant stated they were comfortable with the R1 zone, which is also appropriate and fits well in the existing zoning in the area and the Comp Plan map. Therefore, P&Z recommended approval of the R1 zone. Director Cramer believed the April hearing did not matter as it was not an official hearing as directed by law. Due to the recommendation, staff prepared the ordinances and Reasoned Statements as R1 although TN is still the official request and is included on some of the slides as the application did not change. Director Cramer stated staff is comfortable with either zone as they are both consistent with the Comp Plan.

Slide 2 – Aerial photo of the property under consideration

Director Cramer stated the predominant uses are single-family residential and vacant or agricultural land with the exception of the school and the church building.

Slide 3 – Additional aerial photo of the property under consideration, currently vacant

Director Cramer stated this is a difficult piece of property due to how narrow it is. The Traditional Neighborhood would allow flexibility in lot sizes and land uses. It's also adjacent to uses that are walkable although it's not a traditional walkable neighborhood.

Slide 4 – Comprehensive Plan Future Land Use Map

Director Cramer stated the map shows this area as low-density residential and estate. Estate is really meant for developed County parcels that are difficult to re-subdivide. Low-density is for developments that are typically up to seven (7) units per acre. Traditional Neighborhood allows up to 15 units per acre which is more of a medium-density which the Comp Plan does not specifically address. Director Cramer believes, due to the map, the more obvious fit is the R1 zone.

Slide 5 – Photos of the property under consideration

Director Cramer noted the set of June minutes were inadvertently omitted from the packet. These minutes were distributed to the elected officials. To the response of Councilmember Freeman, Director Cramer stated the property is 153' wide. He also stated in order for this property to be developable, a public road would be required. He noted the minimum right-of-way is 60' wide with the potential of 90' depth on the lots. To the response of

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Councilmember Francis, Director Cramer clarified County is to the south and the small adjacent parcel has been annexed as R1.

Mayor Casper requested public comment from the applicant.

Blake Jolley, Connect Engineering, provided testimony by WebEx. Mr. Jolley reiterated this process began in April. He stated R1 is okay due to discussions with the adjacent landowners to make this property work for the surrounding property. He reiterated the adjacent property is currently zoned R1.

Mayor Casper requested any other public comment. Seeing none, Mayor Casper closed the public hearing.

Councilmember Francis noted staff has recommended TN and R1 zones. He expressed his appreciation to the developer for recommending R1. Councilmember Freeman believes this is a good example and commendable of the developer listening to the neighborhood and changing their plans. Councilmember Dingman agrees with staff for the TN zone but concurs with P&Z for the R1 zone. She also concurs with Councilmember Freeman's comments. She believes both zones fit in the Comp Plan.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Ordinance annexing 4.63 Acres, SE1/4 SE1/14, Section 31, T2N, R38E under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Dingman, Francis, Smede, Hally, Freeman. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3315

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 4.63 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 4.63 Acres, SE1/4 SE1/14, Section 31, T2N, R38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to assign a Comprehensive Plan Designation of Low Density and approve the Ordinance establishing the initial zoning for R1 under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. Roll call as follows: Aye – Councilmembers Hally, Smede, Dingman, Freeman, Francis. Nay – none. Motion carried.

Mr. Fife noted there are two (2) typos in the ordinance summary, these will be corrected.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3316

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 4.63 ACRES

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DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

To the response of Councilmember Francis, Director Cramer stated the Council can make an additional finding if they believe it is missing from the Reasoned Statement.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards, with the addition of a recital clause pointing that the developer requested the R1 at the June 2 Planning and Zoning hearing, for the standards of Initial Zoning of R1 and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Freeman, Francis. Nay – none. Motion carried.

**Subject: Public Hearing – Annexation and Initial Zoning of I&M, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, I&M, M&B: 16.112 Acres, NW1/4, NW1/4 Section 8, T2N, R38E**

For consideration is the application for Annexation and Initial Zoning of I&M, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: M&B: 16.112 Acres, NW1/4, NW1/4 Section 8, T2N, R38E. The Planning and Zoning Commission considered this item at its June 2, 2020 meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Director Cramer stated the acreage presented has changed at the request of Bonneville County due to Iona Road not being annexed. The road is expected to be widened in the future and will stay in the County. The acreage was 16.112 and is now 15.506. Director Cramer noted all the corrected documents were supplied to the City Clerk.

Slide 1 – Location of the property under consideration

Director Cramer stated this is a Category A annexation as the property owner has requested to be annexed.

Slide 2 – Aerial photo of the property under consideration

Director Cramer stated it is vacant land and salvage yards with adjacent commercial and industrial use.

Slide 3 – Additional aerial photo of the property under consideration

Director Cramer noted the photo slide given to P&Z failed to include the canal. He stated it is included in the acreage due to it being contiguous.

Slide 4 – Comprehensive Plan Future Land Use Map

Mayor Casper requested public comment from the applicant.

Steve Heath, Harper Leavitt Engineering, provided testimony by WebEx. Mr. Heath expressed his appreciation to the staff. He reiterated the acreage falls in the Comprehensive Plan with the adjacent industrial zone and County zone. He also reiterated the road will eventually be widened to 100' right-of-way and is intended to be a minor arterial road. To the response of Councilmember Freeman, Mr. Heath stated the property currently does not receive City utilities. These will occur following annexation.

Mayor Casper requested any other public comment. Seeing none, Mayor Casper closed the public hearing.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Ordinance annexing M&B: 15.506 Acres, NW1/4, NW1/4 Section 8, T2N, R38E, under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Dingman, Smede, Francis, Freeman, Hally. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3317

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AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 15.506 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of M&B: 15.506 Acres, NW1/4, NW1/4 Section 8, T2N, R38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Francis, Dingman, Freeman, Hally, Smede. Nay – none. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to assign a Comprehensive Plan Designation of Highway Related Industrial, and approve the Ordinance establishing the initial zoning for I&M under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. Roll call as follows: Aye – Councilmembers Smede, Hally, Dingman, Freeman, Francis. Nay – none. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3318

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 15.506 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS IM ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Dingman, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of I&M and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

**Subject: Public Hearing – Planned Unit Development (PUD) and Reasoned Statement of Relevant Criteria and Standards, Rising Sun Townhomes**

For consideration is the application for the PUD and Reasoned Statement of Relevant Criteria and Standards for Rising Sun Townhomes. The Planning and Zoning Commission (P&Z) considered this item at its June 2, 2020 meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation. Since the P&Z meeting, the applicant has made some adjustments to the site plan. These are explained in the updated staff report. Staff does not believe the changes are substantial enough to warrant a new P&Z hearing. The overall development pattern is still the same and all PUD requirements are still met.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Slide 1 – Property under consideration in current zoning

Slide 2 – Aerial photo of the property under consideration

Slide 3 – Additional aerial photo of the property under consideration

Director Cramer noted the property is currently vacant with adjacent residential and office uses.

Slide 4 – Current design of the PUD

Director Cramer noted a minor change was made since the PUD. He stated the lot on the southern end was enlarged to allow additional space which pushed the southern lots closer to the other row of townhomes. He noted they are

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50' apart and well within code requirements. He also noted the PUD requests 5% internal landscaping rather than the typical 10%. Staff recommended approval due to the amount of landscaping elsewhere in the development. Director Cramer stated 44% of the site is green, open space which is a trade-off for the lack of internal landscaping. There will be 72 units within 18 buildings. The buildings will be fourplex townhomes. Director Cramer noted all other requirements are to code. To the response of Councilmember Freeman, Director Cramer identified two (2) access points to Old Butte Road.

Mayor Casper requested public comment from the applicant.

Blake Jolley, Connect Engineering, provided testimony by WebEx. Mr. Jolley believes this is a good application to meet the needs for additional housing. He reiterated the purpose is for the ability to have the lots and townhomes sold individually. He stated he is not looking for reductions in setbacks and the plan meets the R3A standards. He believes if they bring up the total landscape requirement they would exceed the minimum percent of open space. He stated they want to provide a development with open space. Mr. Jolley also reiterated decreasing the interior parking landscaping. He believes this is reasonable to request as there will be larger landscaping provided and it allows additional parking spaces. He reiterated the landowner to the south needed the extra space to meet PUD requirements. Mayor Casper noted the defacto fire lane to the east and questioned the fire lane access. Mr. Jolley stated the plan was submitted to the Fire Department and reviewed and he has not received any comments concerning the fire lanes. He stated all requirements are met. He noted the secondary access on the south will allow emergency vehicles. He believes there are no concerns for emergency vehicles or roadway widths. Mayor Casper questioned regulation/standard of naming of roads and a policy. Director Cramer stated there is not a specific regulation. He stated all road names, public and private, are reviewed by 911 and GIS (geographic information system) staff to make sure they are not similar to other road names in the Idaho Falls service area and that it is a unique name. Mayor Casper requested a future policy discussion. Councilmember Freeman questioned whether it will have a street name or addressed off Old Butte Road. Mr. Jolley stated he was unsure at this point. He clarified the south access is for emergency vehicle access.

Mayor Casper requested any other public comment. Seeing none, Mayor Casper closed the public hearing.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Planned Unit Development for Rising Sun Townhomes as presented. Roll call as follows: Aye – Councilmembers Freeman, Smede, Francis, Dingman, Hally. Nay – none. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Smede, to approve the Reasoned Statement of Relevant Criteria and Standards for the Planned Unit Development for Rising Sun Townhomes, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Francis, Dingman, Smede, Freeman. Nay – none. Motion carried.

**Subject: Public Hearing – Annexation and Initial Zoning of R3A, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: 9.7 Acres, Sec 33, T2N, R38E**

For consideration is the application for Annexation and Initial Zoning of R3A, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, M&B: 9.7 Acres, Sec 33, T2N, R38E. The Planning and Zoning Commission considered this item at its June 2, 2020 meeting and recommended approval of R3A by a unanimous vote. Staff concurs with this recommendation.

Mayor Casper opened the public hearing and ordered all items presented be entered into the record.

Director Cramer clarified this is a legislative issue. He stated, per the minutes for this hearing, there was a substantial amount of discussion regarding the proposed development which is not an appropriate conversation for annexation. Therefore, following consultation with Mr. Fife, Director Cramer requested an email to Kerry Beutler from Curt Rowland which was forwarded from Alan Walker be stricken from the record. He also requested slides shown at the P&Z hearing, even though Michael Kirkham, Assistant City Attorney requested the slides presentation

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not proceed, not be considered in Council deliberation. These same slides were requested to be part of this hearing and will not be included as they are fully about the development. Mr. Fife recommended these items, if they have been reviewed by the Council, should not be considered in the decision. He stated the Council should only be looking at the governance in the area. Director Cramer noted the corrected version of the zoning ordinance has been presented to the City Clerk. He then presented the following:

Slide 1 – Property under consideration in current zoning

Slide 2 – Aerial photo of the property under consideration

Slide 3 – Additional aerial photo of the property under consideration

Director Cramer stated this property is currently vacant and the proposed R3A zone is intended to be a mixed-use zone and fits within many of the uses in the area.

Slide 4 – Comprehensive Plan Future Land Use Map

Director Cramer stated the R3A zone has historically been used as an appropriate zone for this designation. He noted the Professional Business zone was combined with Medical Services zone when the zoning code was rewritten.

Slide 6 – Photo looking southwest across the property

Slide 7 – Photo looking east across the property

Director Cramer stated there was relevant testimony related to the excess of Professional Business zoning for the City in general and specifically in this area. R3A is being requested due to the flexibility in the land uses and, there is R3A in the immediate area. Director Cramer stated there are zoning concerns raised including multi-family dwellings and height restriction. He noted R3A and PB zones have the same height restriction which is none, although if construction is next to a single-family home anything above two (2) stories for every foot higher it must be two (2) feet further from the single-family home. He also noted landscaping requirements are basically the same in the R3A and PB zone. Councilmember Smede questioned the distance from other R3A zones to this current property. Director Cramer stated he was unsure of the distance, stating there is no rule or requirement that the zoning must be contiguous as there should be consistency of the Comp Plan. He stated it is staff's opinion that R3A is absolutely consistent with the Comp Plan as it is close to services which are meant to be closer to arterials and collectors and, this is a great mix of uses. He reiterated staff strongly recommends approval of the R3A zone. He believes housing is an absolute need and the rules of the Comp Plan makes sense. Councilmember Hally indicated there is no light access to Sunnyside Road, which would make a left turn extremely difficult. He believes the intersection is an unsafe mess. He indicated traffic goes out to Crestwood to use a light but there are no turn lanes. He indicated there are major housing developments that link to this area, specifically Brookside which has no turn lanes from 49<sup>th</sup> South. He believes this is an unsafe access and he prefers a different designation. He also believes density housing in this area would be a catastrophe. To the response of Mayor Casper, Director Cramer stated traffic issues would exist and continue to exist regardless of PB or R3A. He also stated there is a misconception regarding traffic. Traffic is reviewed by total trips and p.m. peak-hour of trips. Typical housing is one (1) trip per unit in the peak hour. Commercial uses are a constant flow of traffic. Traffic concerns are more often emotionally-based than fact-based. A certain number of p.m. peak-hour trips (typically 200) will require a traffic study and any mitigation will be required by the developer. To the response of Councilmember Smede, Director Cramer reiterated higher-density designation is adjacent to the proposed area of annexation as a mixed-use. He stated there is higher-density housing in the immediate area.

Mayor Casper requested public comment from the applicant.

James Rasmussen, applicant, California, provided testimony by WebEx. Mr. Rasmussen stated he has a PowerPoint for presentation. Mayor Casper reiterated the PowerPoint is irrelevant to the zoning decision. Mr. Rasmussen stated one (1) of his partners, Alan Walker, has recently moved to Idaho Falls and one (1) partner who lives in Washington would help build the project although the plan is to use a local builder for project. Mayor Casper reiterated the focus of this hearing is the zoning. Mr. Rasmussen stated there is need for housing, specifically higher-end housing. This location was chosen as being higher-end including the adjacent offices. The proposed zone fits the criteria. Mr. Rasmussen believes this is an ideal spot. He stated the P&Z has seen the project.

Alan Walker, co-applicant, provided testimony by WebEx. Mr. Walker stated Madison Avenue that borders this area on the northern border is already professional office buildings and there are single-family homes along the

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southern border. He believes this is a natural transition area from medical office buildings to single-family residences. He noted it was advised by P&Z to put a landscape buffer between this property and the single-family homes, which they're happy to do. There would also be a 30' setback to comply with the R3A zone. Mr. Walker believes this is a great place for a higher-end residential project that would complement the single-family homes. This can be a compliment to keep individuals in the community. A professional planner evaluated the property and it was identified to be ideal to adjacent daily shopping, a park, and, office use. Mr. Walker stated the current property owner indicated it's difficult to get more office building as it takes more time to develop. There would be flexibility to develop this property and is ideal for the mixed-use. Mr. Walker recognized this property is adjacent to main roads although traffic concerns must be worked out. The position of this property in relationship to those main roads means most of the traffic will never go through the single-family residential and would go straight to the main roads. Mr. Walker stated he cares about the community, the quality of the community, and, he will do what he can to do a quality project with the zone.

Mayor Casper requested any public comment.

Sarah Salsgiver, Idaho Falls, appeared. Ms. Salsgiver stated her house borders the property line and is the largest property. She requested this zone stay commercial and not allow commercial residential. She believes this zone would make many changes, not good changes for the residents. Ms. Salsgiver stated she is not an architect, she is just a mom and requested to reconsider. She does not feel this place is right or appropriate due to the traffic which is already congested with the businesses. She stated the businesses are not there on the weekends which allows safe time with the families and neighbors. This would create 24/7 traffic in and out of the area. Ms. Salsgiver stated one (1) of her children is severely autistic and has issues with loud noises, one of the best times is the peaceful weekends. She understands the area needs to be developed but she again requested this be reconsidered. Mayor Casper expressed her appreciation to Ms. Salsgiver's respect for the public hearing rules.

To the response of Councilmember Smede, Director Cramer stated the R3A zone could include low-density, high-density, and, professional services and offices. Councilmember Smede questioned the maximum number of people depending on the development. Director Cramer believes all residential, for the approximate ten (10) acres, is potentially feasible for 350 units, although this would not be practicable. The professional uses/services allows high-traffic uses, including a hospital although this would also not be practicable. Also to the response of Councilmember Smede, Director Cramer stated all potential issues are discussed with staff. He noted a School District 91 representative is on the P&Z Commission, there is no School District 93 representative. Councilmember Hally stated a new subdivision is being developed west of Brookside and is intentionally taking the road into Brookside. He believes there are too many cars going into those neighborhood. He also believes this is undoable and requested a traffic study. Director Cramer noted a decision could wait if the Council believes additional information needs to be provided. Councilmember Hally recommended this item be postponed to review the traffic patterns in this area. He believes other adjacent properties would want a similar zoning and would not be doable. To the response of Councilmember Francis, Director Cramer stated he is unsure of the County zoning; he confirmed there would be no height limit if a professional office building is constructed; there was no hearing for the preliminary plat because this is a single lot (the final plat has already been considered by P&Z); and, traffic studies are dependent upon the use. Traffic studies typically occur at a preliminary plat or at a site plan stage. Director Cramer stated if this meets the threshold for a traffic study, it would be completed with the site plan. No site plan has been submitted at this point.

Mayor Casper closed the public hearing.

Mr. Rasmussen began to speak regarding a traffic study. To the response of Mayor Casper, Mr. Fife stated when a governing body decides on zoning and annexation that body would decide whether they want to be the jurisdiction that controls the piece of property. If they do not, the property could stay within the County with the County's development standards and decisions. Typically, the City would decide if they could have the governance (fire, police, etc.) if development is to occur in a fair amount of time. The governing body then reviews the Comp Plan including the zoning of the Comp Plan. Mr. Fife stated it is appropriate to think of amenities in a general way although it is not appropriate to think about the particular development. Densities, the most dense/impactful use,

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range of use, other zoning districts, and, the lightest uses can be considered. The Council has broad discretion to decide whether to annex property and any decision needs to be made in a fair way of other annexations. Councilmember Hally stated he is not against annexing, he expressed his concern for the R3A. Following brief comments, Mayor Casper did not re-open the public hearing for Mr. Rasmussen's comments. She noted a traffic study is not required/practical for all zoning uses. Councilmember Hally believes annexation should occur but this annexation should wait for additional feedback. Mayor Casper noted this item has had several discussions with the residents and P&Z. Councilmember Francis understands the traffic issue will occur no matter what happens with the property and should be addressed differently, not in the zoning decision. He does not believe annexation can occur without zoning. Councilmember Freeman stated traffic is a concern but he believes this would be addressed at the appropriate time as similar to other developments. He also noted this is a Category A annexation (requested by the owner) and, land owners have rights. He agrees with Mr. Walker as being a good transition zone. Councilmember Freeman stated he is in support of this. To the response of Councilmember Dingman, Mr. Fife confirmed a different zone could be approved with the annexation. To the response of Councilmember Francis, Mr. Fife confirmed zoning must be approved with the annexation including the Reasoned Statement. Councilmember Smede stated she is pro-annexation when appropriate although she is hesitant putting high-density in this particular area. She understands the point of contention. Mayor Casper stated several options are available for the Councilmembers. Councilmember Francis agrees with Councilmember Freeman regarding the logical transition zone. He believes there is nothing to gain by tabling this item.

It was then moved by Councilmember Francis, seconded by Councilmember Freeman, to approve the Ordinance annexing 9.7 Acres, Section 33, T2N, R38E, under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Francis, Freeman, Hally. Nay – Councilmembers Dingman, Smede. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3319

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 9.696 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Freeman, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 9.7 Acres, Section 33, T2N, R38E, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Francis, Hally. Nay – Councilmembers Smede, Dingman. Motion carried.

It was moved by Councilmember Francis, seconded by Councilmember Freeman, to assign a Comprehensive Plan Designation of Medical Services Center and approve the Ordinance establishing the initial zoning for R3A under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. Roll call as follows: Aye – Councilmembers Francis, Freeman. Nay – Councilmember Dingman, Smede, Hally. Motion failed.

To Mayor Casper's response, Director Cramer stated, per law, a zoning designation must be immediately assigned upon annexation. To the response of Councilmember Smede, Director Cramer stated this item cannot be withdrawn since the annexation was approved. Councilmember Dingman believes the Professional Business fits better as the zone and fits within the Comp Plan. Mr. Fife reiterated it is the Councils' governance for this piece of property and he noted any different zoning designation may restrict the plans for development. Mayor Casper believes the property owners' rights are sacred and the government's voice needs to be restricted by procedures.

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Councilmember Smede believes the issue was that Professional Business was limited and saturated. She questioned zoning as Limited Commercial based on more options and testimonies given. Director Cramer stated Limited Commercial also allows residential. He noted PB does not allow residential, if that's what the goal of the Council is. Councilmember Francis does not see a difference with the traffic issue with Professional Business. Councilmember Smede believes there are numerous traffic access points for this area. She stated planning in advance prevents a different adjacent zone, which she believes is occurring. Mayor Casper believes the request allowed the transitional use. Councilmember Freeman questioned other areas of the City that currently have the same transition, as is his residential area. He indicated the traffic is not an issue.

It was then moved by Councilmember Dingman, seconded by Councilmember Freeman, to assign a Comprehensive Plan Designation of Medical Services Center and approve the Ordinance establishing the initial zoning for R3A under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. It was noted this was the same motion previously made by Councilmember Francis. Roll call as follows: Aye – Councilmembers Freeman, Francis, Dingman. Nay – Councilmember Hally, Smede. Motion carried.

At the request of Mayor Casper, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3320

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 9.696 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R3A ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Francis, seconded by Councilmember Freeman, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R3A and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Freeman, Francis, Dingman. Nay – Councilmembers Smede, Hally. Motion carried.

**Subject: Pawn License Appeal Hearing**

Mayor Casper stated Ms. RainyRose Boyette applied for a Pawn license, the license was denied per the Police Department.

Ms. Boyette appeared. She believes the code for the denial was based on a maybe basis. She stated she is not the type of person the information pulled on this case made her out to be. She understands this could be seen as a serious concern. She stated she is honest and hard-working, she is here to benefit the community, she would not harm anyone in the community, and, she is looking for opportunity to continue to show this as she has been working in this industry for approximately five (5) years and is currently running the pawn section of Infinity Coins.

Police Captain Bill Squires stated the statute used to judge Ms. Boyette's application is pretty specific and simple. He reviewed the last section of 4-13-9, stating Ms. Boyette has been previously convicted of a felony. He stated in February 2018, Ms. Boyette was charged by the Idaho State Police (ISP) with trafficking in marijuana. This charge was plead down in August 2018. This information was used for the denial.

Councilmember Dingman questioned the integrity of the appellant's response to the denial with the personal use of Cannabidiol (CBD) salve as the nature of the felony. Captain Squires does not believe so. He stated the ISP report indicated this was an arrest from a traffic stop with baggage in Ms. Boyette's possession containing 17 different items labeled to contain THC or marijuana on the packaging. The total weight of these combined products was 795

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grams, which is approximately 1.75 pounds of THC or marijuana product. He noted CBD oil is not marked this way. He also noted these items were field-tested by ISP which tested positive for THC. He believes the trafficking amount in Idaho is one (1) pound, this clearly exceeded this amount. To the response of Councilmember Francis, Captain Squires clarified Ms. Boyette was convicted of possession with intent to deliver. To the response of Councilmember Freeman, Mr. Fife stated the wording of 'may' in the code gives Council the discretion to deny the license. Ms. Boyette stated Idaho does not address CBD and puts CBD under the category of pot. She also stated her products were all CBD dominant which helps with pain. She indicated if the THC were extracted from her products it would have been a fraction of a gram. Ms. Boyette believed the CBD was a healthy alternative then her prescription for opioids. Captain Squires stated not a lot of these products were CBD-related products, all these products were stamped and tested for having THC and marijuana. He also stated all of these products were not just for therapeutic use. To the request of Mayor Casper, Ms. Hampton clarified the license is for owners only, not employees. To the response of Councilmember Francis, Captain Squires stated Ms. Boyette's denial was based on the criminal background information, he does not review the applications. Councilmember Smede questioned the CBD salve. Captain Squires read the list of the 17 items stamped with THC marijuana. He noted this charge occurred approximately 2½ years ago and would be at the highest criteria of denial if compared to other ordinances. Councilmember Francis believes there is a second chance at society although there is obligation to follow the law. Councilmember Freeman believes the products in the list appear benign. He also believes these products were personally used to help with pain. He stated Idaho is an island of other states for these products being illegal. Councilmember Hally does not believe Ms. Boyette is selling these products to other individuals, he believes she is using the products to manage pain. Councilmember Smede stated there was a lot of merchandise that was not described in the appeal and the appeal does not match the charges. She is hopeful Ms. Boyette is turning her life around and proving herself to her employer. Ms. Boyette reappeared. Ms. Boyette stated these items were used to make salve to wrap her broken ribs. She requested a compromise such as a trial period or a bond. Mayor Casper stated the law does not allow for deal making. She also stated full discourse would be far better in the future.

It was moved by Councilmember Freeman, to approve the appeal of Ms. Boyette. The motion died for lack of a second.

It was then moved by Councilmember Smede, seconded by Councilmember Francis, to deny the appeal. Roll call as follows: Aye – Councilmembers Smede, Francis. Nay – Councilmembers Hally, Dingman, Freeman. Motion failed.

It was then moved by Councilmember Freeman, seconded by Councilmember Dingman, to grant the appeal of Ms. Boyette. Roll call as follows: Aye – Councilmembers Freeman, Dingman, Hally. Nay – Councilmembers Francis, Smede. Motion carried.

**Announcements:**

Mayor Casper announced there are four (4) more days to apply for the Paycheck Protection Program at the Federal level; she encouraged mask wearing; she announced the Eastern Idaho State Fair Board has voted 4-2 to hold the fair although it is unknown if the City of Blackfoot will allow the fair to occur; she wished a happy and safe Fourth of July; and, she expressed her appreciation to the Councilmembers and staff.

There being no further business, the meeting adjourned at 10:50 p.m.

s/ Kathy Hampton  
\_\_\_\_\_  
CITY CLERK

s/ Rebecca L. Noah Casper  
\_\_\_\_\_  
MAYOR