

August 3, 2021

7:00 p.m.

Planning Department

City Annex Building

**MEMBERS PRESENT:** Commissioners Brent Dixon, Joanne Denney, Gene Hicks, George Morrison, Natalie Black.

**MEMBERS ABSENT:** Arnold Cantu, Margaret Wimborne, Lindsey Romankiw

**ALSO PRESENT:** Assistant Planning Directors Kerry Beutler, Naysha Foster, Caitlin Long, and interested citizens.

**CALL TO ORDER:** Brent Dixon called the meeting to order at 7:00 p.m.

**CHANGES TO AGENDA:** None.

**MINUTES:** Morrison moved to approve the Minutes from July 20, 2021, Denney seconded the motion and it passed unanimously.

**Business (s):**

**1. PLAT 21-017: FINAL PLAT. Final Plat for Teton View Estates Division No. 1, First Amended.**

**Applicant: No applicant appeared.**

Beutler presented the staff report, a part of the record.

Dixon asked about the cul-de-sac on the southeast corner and why those lots are larger. Beutler stated that Copeland Circle the developer has decided not to make changes to that section of the plat.

Morrison stated that this is their chance to put access to the canal for walking. Morrison didn't like that there wasn't any space between the houses for cyclist or bikers to get out of the subdivision without driving all the way out. Morrison wants to encourage the developers to start doing that.

Dixon asked what the total north/south width. Beutler indicated that it is 900' total. Dixon stated that is less than one-fifth of a mile so people could walk out to 65<sup>th</sup> North to get to the canal. Dixon understands Morrison's comment and suggests putting something in the southwest corner, but with the width being short, it makes it less valuable. Morrison was concerned about safety.

Black asked what road North 5<sup>th</sup> East and 65<sup>th</sup> North. Beutler stated that 5<sup>th</sup> East is Lewisville Hwy, and 65<sup>th</sup> North is Tower Road. Black stated that West 65<sup>th</sup> North will have two entrances and asked if they are doing any kind of pathway along East 65<sup>th</sup> North. Beutler indicated that no pathways are proposed currently. Beutler added that they will do sidewalk improvements, but not pathways. Black asked if there is anything that can be done to fix that as this is the first big development in this area. Black feels this is the time to make that pathway connections happen. Beutler stated that you could ask the developer to look at those things, but it doesn't connect to anything, and you are dealing with narrower County Road sections. Beutler is unsure if it is safe to put cyclist on the County roads. Beutler is unsure if this canal company has given permission to have pathways on the canal in this area. Beutler stated that only one canal company has provided the city permission to put pathways on the canals. Black is concerned that this is the

first big subdivision in the area, and they don't have good plans for more traffic, more housing, and better pedestrian access. Beutler stated that they are going to be dedicating additional right of way on 65<sup>th</sup> so that can be widened and can get to the ultimate width of the road needed for future widening. Beutler stated that the plat map shows that there are landscape lots that exist along the north of each of the lots and that is required because those lots back onto an arterial street. Beutler stated that would give potential in the future to utilize that area for pathway if it is deemed that 65<sup>th</sup> is an appropriate roadway for that improvement. Black wants more planning for pedestrians and wants it now instead of trying to fix it later.

Dixon asked if there was an annexation on north side of 65<sup>th</sup> North. Beutler stated that the property diagonal was annexed, but there is no plat associated therewith.

Morrison stated that the preliminary plat should have had the pathways put in, so in the future they need the pathways in the preliminary plat. Black likes that they will be widening the road and adding sidewalks.

Dixon asked if this is the same canal as North Holmes where they had a pathway put in on the north side of the east west run of the canal. Beutler stated that there is not a pathway there yet, but there is a plan for it and an agreement for it with the first phase by Home Depot. Beutler is unsure of the approval of the pathway and how far north it goes.

Black asked and Beutler confirmed that with the final plat they cannot make any changes besides not recommending the Final Plat. Dixon thinks they can make a recommendation of what ever the Commission wants to recommend including modifications. Beutler stated that the Connecting Our Communities would be the planning document to go off of for recommendations, but it doesn't have pathways proposed along 65<sup>th</sup> and 5<sup>th</sup> East. Dixon is concerned that the planning doesn't catch up with the growth and then after the growth occurs its late to backfill the planning. Dixon feels that if they see a major canal or an arterial those are natural places where the Commission has tried to do pathways in other parts of the city. Beutler stated that the challenge that you have is an existed recorded subdivision that established those platted rights of way, and the developer is trying to do some further subdividing, but they aren't changing the platted rights of way or vacating or modifying them. Dixon argued that they are doubling the density and making a major change to the plat.

Dixon stated that there is a mixture of City and County in this area and some places the County residential is just up against 5<sup>th</sup> West and behind it is developing in the city. Beutler stated that 65<sup>th</sup> is the current Area of Impact Line even though there was an annexation across the street recently that was requested by the property owners.

Hicks stated that if there is a lot of concern about the future, and no developer is present, the Commission could decide to delay this item until the next hearing so the developer can respond to some of the concerns of the Commission. Dixon agreed that the Commission has 4 choices, postpone; recommend approval; recommend denial; recommend with conditions, and then let City Council decide. Hicks recalls that the commission has been stopped from making conditions on approvals. Beutler stated that it was a preliminary plat south of York and that would be different because the Subdivision Ordinance does state that if the final plat meets the minimum standards than the Council shall approve the plat, so we are at a point where we are applying regulatory standards to the development and not at the point where they are modifying planning documents.

Kirkham added that the preliminary plat once approved by the City is saying that the developer has met the conditions of the zoning code and the subdivision ordinance and now it is time to go and illustrate where the public improvements are going to be and exactly where the roads are going and when the final plat comes back the review of the final plat should be really focused in on if there has been significant material changes from the preliminary plat level, and if there have been changes then that would suggest an additional review of the preliminary plat because they have strayed from what was approved, but if it is not different then the presumption is that the developer is still in line with the approval and the checks that the Commission has made on the Preliminary Plat. Kirkham stated that if you have a final plat that is substantially similar to what has already been approved that should mean that it will be approved and the final plat is not the opportunity to come up with new legal requirements that the developer has to meet, but the presumption is that they have met those when they got the preliminary approval. Dixon asked what constitutes a substantial change and would doubling the density constitute a substantial change. Kirkham stated that it could if what they have illustrated. Beutler stated that in the Subdivision Ordinance it identifies when a preliminary plat is necessary, and it is only when you are platting new right of way and laying out a new subdivision, so this wouldn't meet this requirement, which is why staff did not require a preliminary plat, because the rights of way are existing. Dixon asked how much time can elapse before something may need to be reviewed because the world has changed (i.e. new planning documents, new comprehensive plan). Kirkham stated that absent a specific language in the subdivision code that places a deadline, then the presumption is that the owner locks in their property right once that preliminary plat has been approved. So if a preliminary plat was approved in 1950 and now someone is coming now to get final plat approval and it is substantially similar to the preliminary plat, and if the subdivision ordinance doesn't have a deadline for resubmittal, then the Supreme Court states that it would be a due process violation to take away the rights. Kirkham stated that once the government has stated that the conditions have been met, the rights and conditions lock in. Dixon asked if they can change that in the future to put a time limitation into the Code and if so, would it apply to existing already approved plats or would they be grandfathered. Kirkham stated that yes, the City can change the Subdivision Ordinance to require people to get a review within a certain amount of time such as 1 or 2 years, but that won't change what people already had so what is locked in before the zoning change is locked in. Beutler stated that the preliminary plat does have a time line associated with it in the Subdivision Ordinance, but this is a final plat that was recorded and when that Plat was recorded it established rights of way and lot lines and those cannot change unless they go through a vacation process, so Beutler doesn't feel that they can establish a timeline once a plat is recorded that could make the plat void. Dixon confirmed that this final plat was recorded and now they are asking to amend the final plat, which means that if the Commission says no, they can still do the original final plat, but if the Commission recommends approval with conditions, then they can move forward that way. Dixon stated that the Commission can move forward and if they feel this final plat is different than the approved final plat, they can consider some modifications and ultimately the City Council is the decision maker.

Morrison stated that if the Commission is just a rubber stamp and they can't change anything they are wasting their time.

Dixon asked legal for clarification where they are asking for a different final plat what can the Commission do. Kirkham stated that the Commission can say no that they don't recommend the

final plat. Kirkham encouraged the Commission to explain why they don't approve it and point to a principle of law that gives the Commission the right to approve it. Kirkham stated that there is a specific process that the legislature has established for coming up with regulations and laws that restrict and govern uses of property, and one thing that the Legislature was concerned about was that by restricting a property owners right to use their property that they wanted to and pursue the development of the property as appropriate the property owners could essentially be subject to decisions that were made on the fly and so because of that the Local Land Use Planning Act requires that zoning and land use regulations be adopted in a certain way and they get reviewed and then when someone wants to use their property those uses get reviewed in a certain way and it is a 2 step process with the land use regulations being adopted and the second phase is to have them reviewed for compliance with the uses. Kirkham stated that if a City or County doesn't like the ordinances, they need to address them separate from a review of an application as people deserve the right to predict how they can use their property prior to coming to a hearing board.

Dixon asked at what point in the process is it proper to bring up a 10' pedestrian easement to get from the interior of the streets to the canal would that be a preliminary plat item or final plat item. Kirkham stated that is possibly both, but first they would need to point to where in the City's Codes a pedestrian pathway is required and at the preliminary stage if the plat or land use application isn't meeting that requirement in the code it could be reviewed then or at the final plat if the preliminary plat was approved with the condition that they have the path. Dixon asked if that could be done at the time of annexation as a condition of annexation. Kirkham doesn't feel that annexations can be conditioned upon dedication to public. Dixon clarified that the road right of way is in the Code but the pedestrian right of way is not in the code. Beutler confirmed that there is not a code requirement, and they have asked developers to provide easements or dedicate right of way at the time of platting and they generally will comply to make the Connecting Our Communities Plan, but that is not a specific code requirement.

Dixon stated that they are learning as part of their job what they can recommend and also where they might want to recommend changes in the future so that things are easier to do because they can point to something in the Code.

Morrison wants this to become a requirement sooner or later. Dixon suggested they move towards a motion and allow after the motion if there is a communication that the Commission would like to make that they make sure that there is a statement in the record for that communication of something that cannot be applied at this time because it is not written in, but something that they would like to see added so in the future they can have some consideration for it.

Black is opposed to tabling this item and there doesn't seem like much that the Commission can do other than recommend denial. Black would like to see the Connecting Our Pathways to go down to some of the areas that doesn't currently have it. Black stated that this is going to be a section whether there aren't good connecting pathways and down the line it will be more expensive to make those changes because they weren't made now. Black feels it is strange to have a final plat that comes to the Commission 13 years later. Black feels there is a big change with doubling the density, but she is unsure if it is enough to change the roadway or any of that as the applicant has already gone through the City and gotten everything approved and the

Commission is just checking to make sure it still meets the requirements. Black wishes they were able to do better planning with adding pathways now, but it can't be done now.

**Black moved to recommend to the Mayor and City Council approval of the Final Plat for Teton View Estates Division No. 1, First Amended as presented, Hicks seconded the motion. The Motion passed 3-1.**

**Morrison opposed the motion because major changes were made to the final plat with doubling the density.**

**2. PLAT 21:025: FINAL PLAT. Final Plat for Providence Point Division No. 1, First Amended.**

**Applicant: Kurt Roland, Eagle Rock Engineering, 1331 Fremont Drive, Idaho Falls, Idaho.** Roland stated that the LDS Church wanted the access road shifted and they are adding one lot to the south. Roland stated that the first lot is a lift station lot and then it goes to building lots and the narrow lot that goes into the church lot is not buildable.

Beutler presented the staff report, a part of the record.

Hicks clarified that they will still have access on 49<sup>th</sup>. Beutler stated that the church will have their eastern access open, and the western access will close and then they will have access onto Providence Point Drive.

**Black moved to recommend to the Mayor and City Council approval of the Providence Point Division No. 1, First Amended, as presented, Morrison seconded the motion and it passed unanimously.**

**Public Hearing(s):**

**3. RZON 21-014: REZONE. Rezone from RMH to R3A.**

Dixon opened the public hearing.

**Applicant: Brice Stadler, 694 S 280 E, Smithfield, Utah.** Stadler wants to rezone the subject property from RMH to R3A and then they are going to attempt to annex the remainder of Woodruff Circle and zone it the same.

Foster presented the staff report.

Hicks asked if there is access to Yellowstone Highway and Woodruff Circle. Foster indicated not at this time.

Foster stated that the land use map shows this area in high density residential.

No one appeared in support or opposition.

Dixon closed the public hearing.

**Morrison moved to recommend to the Mayor and City Council approval of the rezone of 0.22 acres of Lots 1-3 and north 15,8750 Square Feet of Lots 6-7, Block 1 Hodson Addition, as presented, Hicks seconded the motion and it passed unanimously.**

#### **4. ANNEX 21-011: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of R3A.**

Dixon opened the public hearing.

**Applicant: Brice Sadler, 694 S 280 E, Smithfield, Utah.** Sadler wants the subject property annexed into the City as it is surrounded by City property.

Foster presented the staff report, a part of the record.

Black asked what is on Hawthorn. Foster stated that it is platted, but it has not been developed. Black asked why it is shown as platted. Foster stated that it has been platted and recorded, and once the plat is recorded it is shown on the map.

Dixon indicated that in both this item and the previous item the staff notes talk about commercial and industrial, but not the R3A Zone, which makes it hard to see the uses for R3A and compare to the Comprehensive Plan. Dixon urged staff to have that information when it moved forward to City Council.

#### **Support/Opposition:**

**Mark Andrews, 6605 Rimrock, Idaho Falls, Idaho.** Andrews borders the property on the southern boundary. Andrews stated that the Comprehensive Plan has it designated as possible R3A, but the lower is more commercial. Andrews is worried about lot 6, 8, 9 as his property is industrial use and they rent construction equipment and they have a lot of noise, dirt, and light pollution. Andrews stated that 400 homes in that area would be a recipe for disaster. Andrews stated that all of the access goes onto Woodruff, and traffic onto Woodruff is bad already and 400 homes would be inconceivable to think about. Andrews stated that the City Planners had envisioned this area as commercial, and he feels it should stay commercial.

**David Farnsworth, 1895 N. Woodruff, Idaho Falls, Idaho.** Farnsworth is concerned with the traffic on Woodruff. Farnsworth runs a mechanic shop, and they have semi-trucks, big motor homes, RVs and apartments after hours have a tendency to play on surrounding lots and there is a potential for vandalism. Farnsworth feels it would be disastrous to have residential in this area. Farnsworth stated that the plow trucks use this area to turn around while plowing.

Black asked if Farnsworth has any problem with the residential on Glenbriar and in that area.

Farnsworth stated that there is a large field between them, and he has no issue with that residential because there is not an exit going to this property where they are going to Woodruff and the access for that development is on Hollipark and past Action Motor Sports.

**Eldon Halfield, 1585 Lincoln, Idaho Falls, Idaho.** Halfield lives next Hertz Car Sales. Halfield has issues with access to his driveway and is concerned if there is more people moving into that area it would be really bad.

**Applicant: Brice Sadler.** Sadler stated that Commercial brings traffic as well and it will be a big project. Sadler stated that it will be cars all day and not all at once. Sadler doesn't feel it is as bad as they are thinking it is going to be. Sadler stated that the apartments will be towards the back of the property.

Beutler reminded the Commission that the item before them is an annexation an initial zoning and this is an existed platted subdivision in the County with existing right of way that has already been dedicated so discussion regarding access points and access to Woodruff is past and those decisions have been made and are fixed. Beutler stated that the question for the commission is should this be within the City and then what is the appropriate zoning designation. Beutler stated that there are as many commercial uses that could produce as much traffic as a residential use. Beutler stated that there are existing utilities in the area including sewer to provide service to this area. Beutler stated that when the City annexed this area there were several concerns and now that it is under the City jurisdiction the City has submitted for right of way dollars (Federal) to widen Woodruff between Lincoln and Yellowstone. Beutler stated that it was just put into the State Funding this year and that is several years off of construction, but there is a project, and they are working to fix the known issues.

Black asked staff if they found any issues with R3A or did they find that to be the best zoning for the area. Foster indicated that the applicant proposed R3A, but according to the Comprehensive Plan it does allow for higher density as well as commercial, and the R3A allows for both so that zone would fit in this area.

Beutler stated that they did consider LC and that would be appropriate but the Commission in the past has said that if the intention is to do residential then they wanted the applicant to be straight forward with that and not choose a mixed use zone like LC.

Dixon asked which City Zone matches County C2. Beutler stated that LC is the best match or the HC zone. Beutler added that County C2 is a heavier commercial zone and doesn't allow residential.

Dixon closed the public hearing.

Morrison stated that R3A has different things that can be done in that zone. Morrison feels the selected zone is appropriate.

Black finds it difficult as she has in the past been opposed to housing next to industrial uses. Black stated that there is residential to the west already, and if it doesn't get annexed, they could build in the County. Black found staff's comments helpful, and she would agree to the annexation with R3A even though she is concerned with residential next to commercial.

Denney has seen the R3A as a buffer zone between residential and commercial, so she feels this is good to annex this county island.

Hicks agrees that this is good infill and supports it.

**Hicks moved to recommend to the Mayor and City Council approval of the Annexation of 11.27 acres, Lot 6-11, Block 1 and Lots 1-6, Block 6 Hodson Addition and the Adjacent Right of Way for Woodruff Circle, with initial zoning of R3A, Denney seconded the motion, and it passed unanimously.**

**5. RZON 21-015: REZONE. Amendment of the Subdivision Ordinance, Section 10-1-8 and the Comprehensive Zoning Ordinances, Sections 11-6-2, 11-6-3, 11-6-4, 11-6-8, 11-7-1 outlining a process to require neighborhood meetings as part of the development process for preliminary plats, Planned Unit Developments, Rezoning or Conditional Use permits.**

Dixon opened the public hearing.

**Applicant: City of Idaho Falls.** Beutler presented an amendment to the Subdivision Ordinance and Zoning Ordinance to deal with a requirement for neighborhood meetings. Beutler stated that they have found that things go better with applications when a neighborhood meeting has been held and the residents feel heard, and the developer understands concerns of the neighbors better. Beutler indicated that City Council has directed staff to draft ordinance language that would amend the Subdivision Ordinance and the Zoning Ordinance and require a neighborhood meeting prior to making application to the City for preliminary plats, planned unit developments, rezoning designations and conditional use permits.

Dixon asked if the zone matters or if it is any preliminary plat. Beutler indicated it is any preliminary plat no matter the zone.

Hicks asked if the staff report would reflect that there had been a meeting. Beutler agreed and stated that the items that would require a hearing are all items that have an associated public hearing and that was the break of what application types would require neighborhood meetings. Beutler stated that the Code language would require that the applicant, as part of their application the date and time they held the meeting, who was notified, how it was notified, minutes of the meeting that would show concerns raised, and encourage the developer to include ways that they addressed the concerns, and all that information would come to the Planning Commission as part of the packet during the hearing items.

Beutler stated that it is proposed that they remove the requirement for a public hearing for a preliminary plat but would still require the neighborhood meeting prior to the application. Beutler stated that the preliminary plat at the Planning Commission level would be a business item. Beutler added that State Statute does not require that they hold a public hearing during the platting process, it only requires that they outline the subdivision ordinances. Beutler further added that Bonneville County doesn't require public hearing as part of preliminary plats; City of Ammon does when the Planning Commission deems it necessary, or they receive a petition of some sort. Beutler stated that the purpose of the public hearing during the preliminary plat process was to ensure that the residents felt heard and had due process. Staff feels that if they require the neighborhood meeting that process can be handled as part of the neighborhood meeting, in a less formal setting. Beutler stated that often they are reminding people what is appropriate to testify about and what is truly being considered and reminding the developer what is being addressed, so the public and developer would be more free to discuss in the neighborhood meeting setting rather than in this formal public hearing. Beutler stated that in 2016 they started tracking software and since then they have had 24 applications for preliminary plats and of those 24 applications there have been 5 applications that have gone to appeal, a couple have asked for reconsideration and come back to the Commission. Beutler has gone through those meeting minutes and looked at what the public is wanting the Commission to address as part of the hearing as follows: adjacent property owners don't like lot size; housing type is not desirable; concerned about school bus stops and school crowding; concerned about property values; use podium to ask questions (Q&A) from developer and not for stating testimony; feedback on engineering and construction; concerned about perceived demographic; traffic concerns, safety, perception of traffic safety; nuisance issues; water rights questions; questions about utilities and input on utility alignment; issues with notice being given; questions on CC&Rs. Beutler stated that he did not just pick things that the commission doesn't have

jurisdiction over, but he has gone through every persons comment and highlighted the concerns. Beutler stated that very rarely is a suggestion regarding layout or traffic flow that has changed or informed the decision regarding the preliminary plat. Beutler is concerned after review because they are creating an expectation that as a resident if I don't like it or have questions this public hearing is the forum to voice those concerns and then the Planning Commission has the ability to deal with it and address the concerns or deny a project based on those things. Beutler stated that in recent hearings Beutler and Kirkham have tried to keep the Commission in the law and are often times telling the Commission they cannot address that or condition the preliminary plat to address those items. Beutler stated that creates frustration on the Commission and Council's part and the residents' part because the residents feel like this public hearing should be something that it is not.

Beutler presented the staff report, a part of the record.

Hicks sees this as the contractor having a better understanding when he makes the presentation and a better presentation to the Commission. Beutler agreed and stated that it will still be a public meeting and residents will recognize this is on an agenda and can come and observe and provide written comments, but it will take a lot of the emotion out of the room, and allow the Commissioners to have a dialogue with the developer about the neighborhood meeting notes and the concerns that were raised and how the developer addressed those conditions and concerns without the emotion of the meeting.

Morrison feels it is a good idea.

Dixon feels that one of the rolls that the Planning Commission serves is to get things on the record that matter and should be considered in a decision and leverage the City Council's time. Dixon feels there is a difference between a developer and a neighbor talking face to face versus both of them talking to the Commission. Dixon thinks there might be more emotion with just the developer and the neighbors meeting with no body in between. Dixon feels that is part of the job of the Commission. Dixon has become more frustrated over the years because during zoning, a single zone will cover everything like LC includes many residential types. Dixon would like the zones to mean what the name means rather than having to explain what all can be in a zone. Dixon is concerned that with the neighborhood meeting the developer will report back, that this is the concerns of the neighborhood, but we still want to do what we wanted to do originally, and it is allowed in the zone, so it has to be allowed, then what is the purpose of the neighborhood meeting.

Beutler stated that the Planning Commission can still address Comprehensive Plan issues, and this would not take the review capability away, it just wouldn't be a public hearing, but rather a business item. Dixon isn't sure they would get enough input to know what matters. Beutler stated that the Commissions role is to know and understand the long-range comprehensive plan and understand enough about the codes so they can make those decisions and staff will be available to guide and direct. Beutler stated that when he reviewed the meeting minutes, he did not find a lot that was informative and helpful because most things could not be considered.

### **Support/Opposition:**

**Dustin Mortimer, 769 Wilschire, Idaho Falls, Idaho.** Mortimer was attending the meeting on behalf of the area real estate association to learn. Mortimer stated that his family is developers and builders. Mortimer is mixed on the idea. Mortimer lived in Boise where this was common, and developers were used to going to neighbors and here it is not as common. Mortimer stated that as a developer this is a great idea and would help business move quicker. Mortimer stated any time you can dissuade fears and create education you will speed up development timing and that will give you more feedback to get a better product for everyone. Mortimer stated that as a due process concern, he is worried about removing completely the public hearing portion with a worry about those that cannot make the neighborhood meeting might feel they lose a voice in not being able to come to the Commission. Mortimer stated that as he read through the additional notes he did not know how responsible the developers would be in taking minutes so he is concerned that the Planning Commission might not get proper feedback and notes. Mortimer is concerned about missing comments or feedback that the Commission would want that they could get in the public hearing.

Hicks stated that there will be a public meeting so the neighborhood meeting will be documented and even if it is not documented properly, it is still a public meeting. Mortimer understood that the neighborhood meeting would replace the public comment time during the Commissioner meeting. Hicks understands that it would replace that, but it would also let the public discuss things that they cannot discuss in this meeting. Mortimer agreed with Hicks and feels it would streamline a lot of the questions that the Commissioners would get because the developer could answer most questions at the neighborhood meeting. Hicks agrees that the neighborhood meeting would require the developer to be more educated.

Dixon asked Mortimer how well the public meeting would cause the developer to be more organized in presenting what they want to do, or would they go into the meeting less prepared in the development with more of an open-ended idea. Mortimer feels that they would be more prepared. Mortimer added that most developers would have an engineering that has been prepared so they can show and understand what they are doing. Mortimer feels that a sophisticated developer would already be to that point before the neighborhood meeting.

Dixon is concerned about applicants that are well prepared and show what they are planning to do but that could be early on in the development like the zoning hearing and the public during the hearing gets a feel for what might be built there, and after the zone is approved, they sell the property and something different is developed that is allowed in the zone. Dixon stated that this idea would work good if an applicant is intending to go through with the development.

Black asked Mortimer if he found the meetings in Boise to take away the publics fears and questions and have the developers been responsive. Mortimer stated that there is a level of connection and education and relationship building that comes into play.

Morrison stated that page 8 of the draft shows very specific details on how to report the neighborhood meeting. Dixon agrees that the list of reporting criteria goes farther than what the Commission does.

Black is concerned that this puts a burden on the developer to collect this information and report it. Mortimer stated that it is not an undue burden. Mortimer stated that setting up a meeting has more positives than negatives.

Beutler stated that it will only be preliminary plats that they would remove the public hearing item from the Commission, and the other items that require a neighborhood meeting would still have a public hearing, such as a rezone, PUD, CUP. Beutler stated that the Commission can still deny those based on the Comprehensive Plan. Beutler stated that when they get into the plat, they struggle on what can they require of the developer, and in the City they have certain development rights and when it comes to platting it is a checklist of did they meet the minimum standards. Beutler stated that the requirements include that they take notes and provide the Commission information on who is opposed/favor of the development. Beutler agreed that without a verbatim transcript they could have the potential to have the developer say one thing and the neighbors say another thing or understood an agreement differently, and that issue exists now, and it will always exist.

Denney asked if there is a point where the citizens actually get to talk to the City about their concerns. Denney asked if Mayor and City Council will keep the public hearing portion of the preliminary plats. Beutler stated that the Preliminary Plat would not have a public hearing with that process, however residents can contact staff at any time throughout the process to address comments and concerns and the staff can work with the developer to address those issues. Beutler confirmed that with this Ordinance there would not be a public hearing as part of the preliminary plat. Beutler stated that they still have the appeal process and if a resident feels like the Planning Commission made a poor decision the decision can be appealed to City Council and the appellant would still have the ability to present.

Dixon asked if an option for tonight is to table this item until they have a chance to read through the 10 pages of draft that they saw tonight, and then the next meeting they don't have to go through the public hearing, they can just take the testimony received and act at that time. Beutler indicated that they can table it to review the information. Kirkham stated that it is up to the Commission if they are going to have additional testimony. Kirkham advised that this is a quasi-judicial so the input that is going to be considered should be limited to what is introduced to you tonight, so if a developer or a member of the public reaches out to you in between the time that you are considering these things, no additional comment or input should be considered.

Beutler asked Kirkham to clarify that the full staff report is not provided in the packet and the ordinance language that the Commission got tonight is just the Ordinance language, and there are additional documents as part of the report. Beutler asked if that could be provided to the Commission or would that be considered additional testimony. Kirkham stated that it would be additional testimony and unless the Commission reopens the hearing, they can't consider that. Kirkham encourages Boards to make decisions the same night they have a hearing because it can delay decisions significantly. Beutler stated that there is nothing additional in the materials not provided that hasn't been discussed tonight. Dixon confirmed that the Commission is not being asked to go line by line through the Ordinance, but rather being asked for a big decision of do they approve this idea or not.

Dixon closed the public hearing.

Black said WOW and feels that this Ordinance would take the whole point of the Planning Commission away. Black feels that their main job is listening to the public input, and they are the neutral person between the applicant and the public. Black stated that she knows the point is to look through the agenda item as presented to see if it fits the ordinance, and that is what the final decision is made on. Black feels that the developers should have the meeting, but has not

wanted to require the meeting, but she feels that taking that public hearing away from the Planning Commission and put it in the hands of the developer is awful. Black feels the developers could have a meeting and take the input and not do anything. Black feels that when the developers know that a neutral party is considering the input as well, it makes a difference. Black doesn't want contentious meetings, but it is the public's chance to voice their issues good and bad for the development. Black stated that general public doesn't know they can go to the City and voice concerns or get questions answered, all they know is that there is a public hearing. Black feels that they have to follow the ordinance and what the law says, and they can say that to the public during the hearing. Black feels this would turn the Commission into a "rubber stamp."

Morrison wonders what the public will think about this.

Denney can see pros and cons. Denney has mixed feelings. Denney realizes that citizens have access to other means of communication, but this ordinance seems to be closing a door on the public by not allowing them to have a public hearing to air their feelings. Denney doesn't want contentious meetings, but she feels that the public needs the opportunity to speak in a public forum. Denney questions whether developers would take good notes to address concerns.

Hicks has been advocating for this for a long time and thinks it is a good move forward and he cannot see where it will take away the Commission's responsibility nor will it take away the public's ability to complain or act in any manner that they haven't already. Hicks believes this will benefit the public by answering questions directly between the public and the developer that couldn't be answered during the Commission meetings. Hicks stated that often the public asks questions of the Commission that are actually questions of the developer and those cannot be answered. Hicks believes that it will take time and there will be developers who will fail at the meetings, but others will make this work extremely well and take it as a move forward to have a better relationship with their neighborhood. Hicks added that information never hurt any one and supports this application.

Dixon agreed with Hicks that having the commission as the neutral in between party can get in the way of the relationship with the developer and neighbors.

Dixon asked Black why she would recommend a meeting, but not require it of a developer. Black stated that she felt it was an undue burden on the developer. Black feels it is wise, but just another step for the developer to go through. Black stated that if the public hearing is taken from the Commission and given to the developer it could defuse a lot of issues and could build a relationship, but if it doesn't happen properly, will the public feel like they had their voice. Black understands that often they listen to testimony that has nothing to do with the application, but the public felt that they had their chance and a voice to the City. Black stated that they still have to remember who is not in the room and when you have the public just meeting with the developer others aren't represented in a public meeting with the developer. Black stated that she would be more in favor of requiring the developer to have a meeting, but still feels they need the public hearing with the Commission.

Dixon asked Hicks if he is concerned that promises made by the developer are not on the public record. Hicks questioned whether a developer would make promises. Hicks stated that some meetings are going to work great, and some are not.

Dixon stated that things have evolved over the years with how the Commission has handled applications. Dixon stated that this is another proposed change.

Morrison stated that he has always had a problem with the 300' notice and wants a bigger circle around the development for notice.

**Hicks moved to recommend to the Mayor and City Council approval of the Amendments to the Subdivision Ordinances outlining a process to require neighborhood meetings as part of the development process for preliminary plats, Planned Unit Developments, Rezoning and Conditional Use Permits as presented, Morrison seconded the motion. Dixon called for Roll call vote: Hicks, yes; Morrison, yes; Denney, yes; Black, no. The motion passed 3-1.**

**Black opposed the motion for the reason that the this is a drastic change for the developers and would like to see the City require the meeting first and still have the meeting with Planning and Zoning before they just erase the public hearing.**

### Miscellaneous:

#### Comprehensive Plan Update

Beutler presented that they have 7 weeks to complete the Comprehensive Plan Document and have a draft for the Commission in October and in front of City Council in December. Beutler showed the Urban Transects document that is an idea that explains and gets a better understanding to have development in the City. Beutler walked through all the transects 1-7, Open spaces to downtown, and included Transect 8 for special use for places like the airport, Sandy Downs.

Beutler showed the City Map and started to designate transects of areas that are known and don't really require discussion and has left off the areas that require more discussion and wants to go through some of the areas to discuss what could develop in those areas, or what should be developing in those areas.

Hicks is concerned that south of town there are no businesses. Beutler showed that this area is all residential, and he applied suburban transect to it because by definition it has easy vehicular access to commercial, but no access to daily services. Beutler stated that they want to change that, and so they think those areas will diversify. Beutler stated that they can influence the areas around to provide more services. Hicks asked if they could require more services in this area. Beutler stated that they cannot require development, but they can change the Comprehensive Plan.

Dixon stated that they have the idealized square mile that indicates that near the arterials on collectors they should have high density, but not in the core of neighborhoods. Dixon stated that some of the higher densities that exist are in the mixed use rather than in the yellow. Dixon is concerned with the big blotch of yellow, and he doesn't think changing the definition of suburban, but rather address it by using what is in the Comprehensive Plan and say you cannot have 3 square miles of only suburban, and there has to have a mix with every square mile needs a mix if it is primarily residential. Beutler stated that the challenge is the Comprehensive Plan is not worded that direct so trying to enforce that is a challenge.

Morrison stated that they need to revise the wording, so it doesn't paint the Commission on the corner with "low density" or other words. Beutler stated that is why suburban was rewritten that way to look forward in how they would change the code to implement these things.

Dixon stated that when they did the Comprehensive Planning 15 years ago, they tried to identify where they would have neighborhood commercial nodes with the idea that they would be every couple of miles with a gas station or laundry mat or something. Dixon stated the portion of South Point that is suggesting higher density is where one of the nodes was identified. Dixon feels that some big picture comprehensive planning could help development.

Beutler asked the Commission and asked them to look broader than a gas station because for commercial to be successful there needs to be a certain amount intensity to feed off of each other. Beutler showed 49<sup>th</sup> and St. Clair that has property zoned LC, but it might not develop into something that could be a walkable center to provide services because there aren't enough roof tops to make a business financially feasible. Beutler stated that they need a change at how they look at things.

There was discussion on commercial nodes and walkable versus drivable grocery stores. Beutler outlined a larger area that would be identified as a general urban that is more intense, more diversified in housing types and closer to commercial services and more connective street patterns. Beutler asked the Commission if they liked how that is drawn. The Commissioners agreed that looked good. Morrison wants to change the zoning to fit this idea of the new Comprehensive Plan as it is a good idea. Beutler stated that as part of the Comprehensive Plan Amendment they are developing action items and some of those relate to modifying the zoning ordinance for implementation of the Comprehensive Plan.

Dixon adjourned the meeting at approximately 10:00 p.m.

**Respectfully Submitted**

**Beckie Thompson, Recorder**