

August 7, 2018

7:00 p.m.

Planning Department

Council Chambers

**MEMBERS PRESENT:** Commissioners George Morrison, George Swaney, Gene Hicks, Joanne Denney, Natalie Black, Julie Foster, Brent Dixon, Arnold Cantu, Darren Josephson. (9 present 8 votes).

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

**ALSO PRESENT:** Planning Director, Brad Cramer, Assistant Planning Directors, Kerry Beutler, Brent McLane, Brian Stevens; and interested citizens.

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

**CHANGES TO AGENDA:** None.

**MINUTES:** Black had a few typos she pointed out. **Black moved to approve the Minutes of July 10, 2018, Hicks seconded the motion and it passed unanimously. Julie Foster abstained from voting as she was not present at the meeting in question.**

**Public Hearing:**

**1. PUD 18-001: PLANNED UNIT DEVELOPMENT. The Gardens PUD.** Beutler presented the staff report, a part of the record. Morrison asked about parking, Beutler showed how the parking will not be tandem, but rather a garage with a driveway and parking next to that driveway. Dixon had Beutler re-count the visitor spaces and found only 7 spaces. Black voiced her concern about the garbage and asked if it will be landscaped. Beutler stated that the trash enclosure is up to the applicant and the Commission can dictate requirements. Black asked if Constellation will have sidewalks, curb and gutter. Beutler stated that the applicant is proposing sidewalk along the frontage of their development. Beutler stated that the assisted living center has sidewalk; and there is no sidewalk to the south to Janessa. Beutler stated that they would recommend to the applicant to complete the pedestrian connection to the south. Black asked why the connection to the south doesn't have curb and gutter. Beutler indicated that Janessa has curb, gutter and sidewalk and the connection to the south was an emergency access road that was for emergency vehicles for a second access and didn't need to have sidewalk. Dixon was concerned with access. Dixon stated that there are no sidewalks internally in the development and can the Commission request internal sidewalk. Beutler indicated that it can be discussed with the applicant. Dixon is concerned about the road to the south and the narrowness of the road. Beutler indicated that the southern access is a 25' easement and it widens to 30' easement with 20' of asphalt and that is the minimum that fire would require. Dixon asked if there is any plan to widen the street. Beutler stated that fire might require that they widen it. Beutler indicated that they anticipate that the traffic will go north to Broadway and the connection to Janessa will likely be more for emergency access, sanitation, etc. Beutler indicated that they typically want at least 25' and they have let the applicant know to make sure they have the proper easements to ensure access through the private road. Morrison asked if the Fire Marshall has looked at this application. Beutler indicated that they have completed a single review and there weren't any major red flags, but they will do additional reviews. Foster suggested that they do one less unit on Number 12 or the street will have to do something funky to make it go around to Janessa.

Foster indicated that the unit appears to be almost in the road. Foster and Beutler discussed the connection route from Constellation to Janessa. Hicks indicated that there will be children walking through the development to catch a bus, and he believes there needs to be a way to accommodate the children, so they are not walking in the street. Beutler agreed that a pedestrian connection north and south needs to be made. Morrison asked if the School District ever gets involved. Beutler stated that they get copies of the plat, but not site plans. Beutler stated that they are proposing sidewalk in front of the development and there is sidewalk to the north where the assisted living center is, but the gap is with the southern connection to Janessa. Beutler stated that pedestrian connection is talked about in the Planned Unit Development and that would be appropriate. Black stated that if children are within 1 mile from the high school they walk and there is no bus, and kids walk all over town on busy roads. Denney asked who must maintaining the private road. Beutler stated that it is the property owners including a mix of property owners on Janessa Lane (HOA), and the properties to the north, including the undeveloped property to the west that would use Constellation for access, and that would have to be maintained, and they would have to provide the easement documents and ownership and maintenance documents.

Morrison opened the public hearing.

**Applicant: No applicant was present.**

Black asked about the elevation drawings that show sidewalks and curb and gutter, but there is nothing on the actual site plan. Beutler agreed that the elevation drawings are just to get a feel for the type of building and the Commission should follow what is on the site plan, not the elevation drawing.

**No one appeared in support or opposition of application.**

Morrison closed the public hearing.

Foster indicated that the development is something that is needed in Idaho Falls including nice looking, affordable housing, and the area is good, but they need to plan better for the road to connect to Janessa with Unit 12 considering one less unit (triplex) and bring the trash back closer to the east so it doesn't create a weird curve in the street.

Swaney agreed with Foster that unit 12 needs to be a triplex instead of a fourplex so you can get the 30' roadway to the end of the property. Swaney indicated that the City needs to see what authority they have as the emergency access that was originally provided appears to be too narrow, and has no curb and gutter, and even if it's a private road it needs to be developed to meet City standards for a private roadway and it doesn't meet any standards. Swaney stated that this PUD is an improvement to a vacant lot, but the property owners have a responsibility to the road to make it up to standards.

Dixon showed his concern with the difference of the elevation drawings versus the information provided on the plat for the PUD and their conflicting information, including curb and gutter, sidewalk, narrow porch. Dixon is concerned that there is not a consistent plan being presented and he is unsure of what is being asked to be approved, whether it be the elevation drawing or the plat.

Beutler clarified that the picture of the elevation looks at the structure and doesn't describe the lot, so there will be a discrepancy and that is not uncommon.

Cramer clarified that if the Commission requires the applicant to widen the road it will still narrow back down to the existing width going south, and there is no ability to require them to widen the road to the south as it does meet the required standard that the Fire Department has asked for. Cramer stated that this is one of the failings of PUD and often used to avoid building City Streets and only building private roads, so you end up with roadways like this with no curb, gutter, sidewalk, park strip, and it is a standard that is allowed.

Dixon indicated his concern for the traffic flow going close to the assisted living center and is concerned about setting a precedent of not having a separation between a building and the street.

Cramer stated that Constellation was always envisioned to connect with Janessa because it had to. Cramer indicated that in a typical project there is a setback from a public street and if this was an R-3A Zone it would have to be 15' back from the public street. Dixon indicated that he is concerned with the existing assisted living center and whether the proposed development will create a hazard for the assisted living center. Dixon indicated that originally it would have been more like a parking lot for the assisted living center, not a private drive, and with this new development it makes it function as a private drive.

Morrison indicated that they have already set the precedent for the fire access roads being used later as a main road, and they need to make sure that the fire access roads are wide enough to accommodate a full City street when they get through with the development.

Black asked if there is enough room for this development to add curb and gutter on one side and then any development that goes to the west would need to add curb and gutter to that side if they had access to that road. Beutler stated that there is no way to know what the future development might be, and it could be commercial with a commercial parking lot, and curb and gutter might not make sense. Beutler stated that he feels Black is concerned with pedestrian connectivity and separation of pedestrians and vehicles and that can be addressed. Beutler stated that widening the road will be difficult regardless with what is already existing. Beutler stated that fence to fence is only 25' on the south that attaches to Janessa Lane. Beutler indicated that he doesn't have all the information on the easements and whether they have the ability.

Hicks suggested deferring this application to a different date that the applicant can be present for the hearing to address the questions.

Black asked if this can be denied and then the applicant can take it to City Council. Beutler indicated that the denial would be a recommendation to City Council, so the applicant can move forward. Beutler added that if the item is going to be postponed they need to have specific items you wanted addressed and to a date certain. Cramer stated that if they recommend denial but there are things the applicant can do to address the concerns and it would have changed the recommendation to approval if those are outlined as part of the motion, so the applicant is clear, and City Council is clear on what the Planning Commission wanted. Cramer stated that if they table it, it needs to be to a date certain or September meeting, so they don't have to go through the entire advertising process again.

**Hicks moved to table the application for The Gardens Planned Unit Development to the September meeting, and further that the applicant attend the meeting to address the questions the Commission has, Dixon seconded the motion.**

Dixon suggested listing the issues as part of the motion. Dixon wanted to add that he is not concerned about the width of Constellation south of the development because it does go into the narrow drive between the two fences, however, he is concerned about the width to the north, and he feels that the assisted living owners sold off the lot and to a certain extent they own a responsibility to provide reasonable access to the lot, and if all they have is a sidewalk to separate their building from the street, that is not a safe situation.

**Morrison called for a vote. The Motion passed 7-1. Foster opposed the motion as she feels the motion should have been a recommendation for denial rather than trying to tell the applicant what to bring back in September.**

**2. RZON 18-013: REZONE TO REMOVE THE PT OVERLAY ZONE.** Stephens presented the staff report, a part of the record. Dixon asked what the area is transitioning from in the areas that are LC and why is there a PT Overlay on this area. Stephens indicated that the PT Overlay was put in place in 1987 and the PT Overlay is not necessary any more with the new ordinances and the BMPO Access Management Plan.

Cramer added that there is nothing in this area that would be transitioning from a different use to a new use, it is commercial. Cramer stated that the original purpose of the PT Overlay was to protect the neighbors after the commercial development happened, including buffering and hours of operation, and to get rid of driveways off 17<sup>th</sup>. Cramer stated that the new codes LC standards with buffers and the PT Overlay the LC is a better buffer for the neighbors and a better street scape requirement. Cramer stated that the only difference is some of the uses and the hours of operation are restricted in a PT Zone. Cramer stated that the east side of this property doesn't have any residential to protect. Cramer indicated that the LC zone will protect the neighbors on its own. Cramer indicated that it was his idea to expand the scope of the rezone and look at the homes that have the PT Overlay and they are not changing to commercial, so the PT Overlay doesn't need to be on the area and leave it as a residential zone.

Dixon asked what mechanism is used for accessing the larger lot. Cramer stated that there is an access point onto East 16<sup>th</sup> and an access easement on the west side of the Tv Station as well as access onto 17<sup>th</sup> Street. Dixon indicated that Staker Floral and Daylight Donuts are too small (below 30,000 ft) so can they never transition although they have already become commercial from residential. Cramer stated that they can change uses, but if someone wanted to redevelop and demolish they'd have to rezone or acquire more property. Dixon indicated that house on the corner of Juniper has the potential to use its backyard as parking and turn into commercial. Dixon indicated he is trying to understand the logic behind what properties they have chosen. Cramer stated that if they are going to leave the PT Overlay on all of it, it would make sense to keep the PT Overlay on that house, however, that house on its own with the PT Overlay can never transition.

Morrison opened the public hearing.

**Applicant: Clint Boyle, Horrocks Engineers, 901 Pier View Ave., Idaho Falls, Idaho.** Boyle indicated that his clients have a specific use they are ready to move forward with for a tunnel car wash and within the PT Zone that use is prohibited. Boyle stated that there is nothing to protect with the PT Overlay as there is commercial uses surrounding the site. Boyle stated that they submitted on 4 parcels to remove the PT Overlay including the vacant property to the east, the Quick Cash building, Fast Signs has a finger for the access drive, and Baskin Robin parcel.

Boyle stated that the area has already transitioned to commercial. Boyle stated that to bring the request forward his client had to option the Quick Cash building, plus the vacant lot and got the Baskin Robin owner to come in on the application to remove the PT Overlay. Boyle stated that will give them flexibility when they develop, and they can reconfigure some of the access drives and parking. Boyle stated that there is a shared access drive with an existing cross-access easement. Boyle stated in working with the engineering department there would be some improvements at the access point to create more of a curb radius/curb return to allow traffic to get off the roadway quicker. Boyle indicated that there has been a specific focus on 17<sup>th</sup> Street with the new improvements and this parcel will utilize existing drive approaches so there will be no new approaches. Boyle indicated that the PT Overlay went in the mid 80's and that was a City initiated property rezone and the conditions have changed and the LC zone is to provide retail and service uses and located along major streets along with other provisions that are in the LC zone that provide protections that didn't exist under C-1 that was previously in affect.

Foster asked which parcel they will put the car wash on. Boyle indicated that they will be building immediately east of the Quick Cash building on the vacant parcel.

### **Support/Opposition:**

**Jake Workman, 1625 Juniper, Idaho Falls, Idaho.** Workman is in favor land development. Workman has concerns about the removal of the PT Overlay from his residential property. Workman doesn't think its fair to the developer for the City to tack on the extra zoning change to his application. Workman questioned whether it is development friendly for the City to expand the requests. Workman stated that it is unfair to the commission to deal with a Frankenstein situation when members of the community show up with pitch forks complaining about the creation that they don't understand. Workman stated that the letter that they received had one line and it was unclear as to what was going on. Workman stated that this situation goes beyond logic and it gets to emotion and the core of who the people are. Workman stated that it is disingenuous to say that it is highly unlikely to say that his house will be changed when at the same time they are suggesting removing the overlay, to encourage development. Workman stated that he is in favor of the proposed development, but he doesn't think the City has provided enough reasoning behind changing his overlay of his property. Black asked if Workman's concerns were clarified by what staff said tonight. Workman stated that he had a chance to speak with staff over the phone and they have given information requested, but he doesn't feel that they have adequately given reason as to why his property needs to change. Black stated that this removal of the Overlay will keep his property very safe that it won't transition into something as they are wanting to remove the PT Overlay. Black clarified that the commercial property will be the development that they are talking about, but removing the PT Overlay from the residential it guarantees that the residential will stay residential and it won't transition. Workman stated that he understood that they are going to remove the PT Overlay to encourage future development.

Cramer explained that today with the PT Overlay on the residential properties they are set up today for someone to buy up the houses demolish them and do something different but removing the PT Overlay keeps them residential. Cramer stated that the staff thought the properties should stay residential because that is what they are, and they are not transitioning to commercial. Cramer added that if they take the overlay off, then if someone wants to do a commercial development they will have to come back and go through the hearing again. Cramer stated that when they talk about removing the PT Overlay to encourage development, they are making the

standards different for the LC properties, which allows additional uses, and removes hours of operation restrictions. Cramer stated that they are not proposing development on the residential area today or in the future but rather protecting those houses by removing the PT Overlay that would allow them to transition to commercial.

Swaney asked what was sent to residents. Cramer stated that they send out a letter to everyone within 300' of the property and the one sentence it will say is "the Request is to rezone lots 1-4 ... from PT to ...". Swaney suggested that the staff send information to residents that includes enough information so that they understand more than just the one line at the top of the slide, and the impact on their property, so people can come to the hearing informed in advance. Cramer agreed that they can do a better job.

Hicks suggested having a mandatory neighborhood meeting about what is about to happen.

**Micah Seaver, 1574 Juniper, Idaho Falls, Idaho.** Seaver stated that the letter was frightening and the map that was enclosed had all the zones listed, but no legend. Seaver thanked staff for clearing up the scare. Seaver indicated that he is for development. Seaver stated that his daughter is 4<sup>th</sup> generation in his house and there is history in his home. Seaver stated that he is for development if it is the right development. Seaver stated that if it will be noisy it won't be good for the neighborhood.

**Amanda Seaver, 1574 Juniper, Idaho Falls, Idaho.** A. Seaver stated that lifting the PT Overlay on Juniper Drive and ensuring that her kids can still be there and not be forced out by development is good. Seaver indicated that the neighborhood needs to be protected.

**Felicity Hansen, 1575 Juniper, Idaho Falls, Idaho.** Hansen stated that she remembers when the donut shop opened and one of the problems with the streets in the neighborhood is that they are narrow. Hansen stated that the lots are one car lots and the second vehicle is parked in front of the home. Hansen stated that there is no parking for the donut shop and people who go to the donut shop park down the road. Hansen stated that bringing any other business to the street would make it unsafe for their children. Hansen believes that making the area not be able to transition to commercial is the best option.

**Bob Clark, 1256 Tower Street, Idaho Falls, Idaho.** Clark asked which property will be commercial. Stephens clarified that the red area will be LC and the yellow will be R-1. Clark asked about the vacant lot to the right of the sign building and asked if that is zoned commercial. Stephens agreed that it is an LC zone. Clark asked if that can be developed into residential townhomes. Stephens indicated that it can be developed. Clark stated that he met with the developer that will be developing the Townhomes and he was told that they couldn't have access to 17<sup>th</sup> Street and they can only access 16<sup>th</sup> Street. Morrison ended the conversation as it did not relate to the subject property/application.

**Kristy Campbell, 1655 Juniper, Idaho Falls, Idaho.** Campbell asked if they remove the PT Overlay does it make the hours of operation to where they can run all night because Baskin Robins is loud enough until 11 p.m. Campbell stated that if it changes the hours of operation to be open longer it could be very detrimental to the neighborhood to have things going on until 2 a.m. Cramer indicated that there is no restriction on hours of operation, but the zoning ordinance does have a nuisance ordinance related to noise, and so if there are obnoxious noises then they

can be addressed in a different way. Campell indicated that she is not in favor of the unrestricted hours of operation.

Morrison closed the public hearing.

Dixon indicated that he understands the staff's logic and the developers request. Dixon indicated that everything being proposed makes sense.

Black stated that she hopes that the residents understand that this removal of the PT Overlay will protect the properties, so someone can't come in and buy the property and create commercial, and it makes it safer to stay residential and is a good thing for the neighborhood.

Foster stated that they are discussing having a carwash that could operate all night that is next to residential properties. Foster stated that adding another commercial property to the area there will be additional noise that affects the neighborhood and the neighbors and residents have a concern with that factor. Black indicated that to the east is commercial, then a vacant lot between Baskin Robins and the residential.

Swaney stated that one advantage of whatever is developed in the LC lot after the PT Overlay is removed, will be developed to the new City Ordinance and standards for the LC Zone with landscaping and an improved lot, rather than a vacant dust bowl. Swaney stated that it was a confusing effort, with well intentions, to expand the removal of the PT Overlay.

Dixon pointed out that if his motion is approved, they would have two lots of R-1 with a PT Overlay left over that have already transitioned to commercial use, but are not large enough to obtain the size required to transition, so they are in limbo and it would be good if the staff could come up with something that gets them out of limbo.

**Dixon moved to recommend to the Mayor and City Council approval of the Rezone from R1/PT and LC/PT/TI to R1 and LC/TI with removal of the PT Overlay, as presented, Josephson seconded the motion and it passed unanimously.**

**3. RZON 18-014: REZONE. Amendments to Zoning Ordinances.** McLane presented the staff report, a part of the record. Dixon asked about some other changes on page 32. McLane indicated that the text is still in red because it hasn't been approved by Council, but it has been discussed with the Planning Commission. Dixon asked if it is a good idea to remove the size restriction requirement on care taker dwellings. McLane indicated that the accessory dwelling must be a single unit and they haven't had any size restrictions on care taker dwellings in the past and have not had any issues, as typically a commercial development is more mindful of their space and they don't want to give up space to residential use.

Swaney commended the staff on all their efforts to improve the change in the ordinance.

**Dixon moved to recommend to the Mayor and City Council approval of the Zoning Ordinance Amendments as presented, Black seconded the motion and it passed unanimously.**

Beutler asked if the Commissioners would prefer the next meeting on September 4 or September 11. They agreed on September 11 for the next meeting.

Morrison adjourned the meeting.

**Respectfully Submitted**

**Beckie Thompson, Recorder**