

September 11, 2018

7:00 p.m.

Planning Department

Council Chambers

**MEMBERS PRESENT:** Commissioners Margaret Wimborne, George Swaney, Gene Hicks, Joanne Denney, Natalie Black, Lindsey Romankiw, Brent Dixon, Arnold Cantu, Darren Josephson. (9 present 8 votes).

**MEMBERS ABSENT:** Julie Foster, George Morrison

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

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

**CHANGES TO AGENDA:** None.

**MINUTES:** Black moved to approve the Minutes of August 7, 2018, Cantu seconded the motion and it passed unanimously.

**Business:**

**1. ANNEX 18-011: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of R1 of a portion of 65<sup>th</sup> South adjacent to Park Place Div. 5.** Stephens presented the staff report, a part of the record. Dixon asked why they are annexing this portion and not the portion by Davinci Drive. Beutler indicated that they are working through the development of Park Place 5 with the engineering office and public works and with the County. Beutler indicated that they don't annex the road unless they have City property on both sides, and in this instance the development of Park Place 5 makes it easier for it to all be under one jurisdiction for the permitting process for the development of the road.

**Applicant: City of Idaho Falls.**

**Swaney moved to recommend to the Mayor and City Council approval of the Annexation and Initial Zoning of R1 for M&B: Approximately 1.376 acres SE ¼ Section 1 & NE ¼ Section 12 T 1N, R 37E, Hick seconded the motion and it passed unanimously.**

**2. ANNEX 18-013: ANNEXATION/INITIAL ZONING. Tomchak Annexation of and Initial Zoning of I&M.** Stephens presented the staff report, a part of the record. Black asked which property the owner owns as well. Stephens showed where T&T Park was recently annexed, and they were going to have a shared access. Stephens indicated that they have acquired the new property and to simplify they will have a single curb cut between the two property lines.

**Applicant: Daryl Kofoed, HLE, 100 Park Ave, Idaho Falls, Idaho.** Kofoed stood for questions.

**Dixon moved to recommend to the Mayor and City Council approval of the Annexation and Initial Zoning of I&M for M&B: Approximately 6.394 Acres NE ¼ Section 7, T 2N R 38E, as presented, Hick seconded the motion and it passed unanimously.**

### **Public Hearings:**

**3. RZON 18-015: REZONE. Rezone from PB to R3A.** Stephens presented the staff report, a part of the record. Hicks asked, and Stephens confirmed that the property adjacent to the proposed rezone is owned by the same party. Black confirmed that the building to the north west on John Adams is the same owner and they will use the same access point on John Adams, as well as Homer. Stephens indicated that there should be a shared access/parking agreement to be executed. Dixon indicated that if this parcel is changed to R3A then the property on the corner that is PB will look like spot zoning. Cramer stated that staff recommended to the applicant to rezone the entire property to R3A, as that is what is in the area and it is odd to leave the small patch of PB. Dixon stated that the back of the packet had a drawing for the area with Phase I and Phase II. Dixon asked if they are changing this from office to high density residential and that is the reason for the rezoning request. Stephens stated that was the original site plan for the entire parcel. Dixon asked if they are converting the property to residential, or are they wanting the zoning change to allow them to do something further in commercial development, that PB doesn't allow, but R3A does allow. Stephens stated that they don't want to discuss what the project will be, although his understanding is they are going to build residential, but anything that is available in the use table would be permitted. Wimborne asked if the buffer is 7-10' of landscape, and not a fence. Stephens stated that it is 7' with evergreen, or 10' without big trees.

Wimborne opened the public hearing.

**Applicant: Barry Baine, Connect Engineering, 1150 Hollipark, Idaho Falls, Idaho.** Baine stated that R3A is a good zone for infill areas such as this to buffer between the residential and commercial. Baine indicated that the high density building to the east is owned by the same owner and the owner is not opposed to zoning the PB building R3A.

Dixon asked if the request is to use a different use that is not allowed in PB or is there a difference in setbacks or something that R3A will allow that PB will not. Baine indicated that it he feels that the owner is going to add a residential buffer other than commercial.

Swaney indicated that this is a rezone, and not the approval of a plat or site plan, and whatever is allowed in R3A can be built.

No one appeared in support of the application.

### **Opposition:**

**Nancy Stewart, 1627 Teakwood, Idaho Falls, Idaho.** Stewart submitted her written testimony for the record. Stewart is concerned that the rezone will reduce her property value. Stewart is concerned about her privacy being lost by apartments looking into her back yard and windows. Stewart is concerned about increased noise on the evenings and weekends. Stewart is concerned about rental property tenants who leave furniture and abandon vehicles in the parking lot. Stewart stated that she has complained about the same issues regarding the apartments on Homer. Stewart wants the lot to remain PB office building where the occupants go home each night. Stewart indicated that if it is zoned R3A she will request a reduction in her property taxation value.

Wimborne closed the public hearing.

Dixon reminded the Commissioners about an applicant that would request R-2 or R-3 because the setbacks were less than R-1 and they wanted to put more dwellings on smaller lots, it was developed like R-1 with single family detached homes, and as each block was completed they would come back to the Commission and ask for a rezone to R1 now that the setbacks had been used. Dixon indicated he wanted to find out if that is what this developer was attempting to do by asking for an R3A zoning, and Dixon wanted to know what the difference was in the zone.

Wimborne indicated that they've all had times where they were focused on what the project is, and it turns out that the project didn't happen, so the zoning must be appropriate for the area.

**Swaney moved to recommend to the Mayor and City Council approval of the Rezone from PB to R3A, for Portion of Lot 4, Block 2, Parkwood Addition, Division 4, as presented, Denney seconded the motion and it passed 6-2. Dixon and Cantu opposed the motion.**

**Dixon indicated he opposed the motion because it was not discussed whether it is appropriate to have a high density residential up against existing R-1, and a business would be a lower impact than high density residential. Dixon stated that the Commission did not get told why they wanted the change, just that they want the change.**

**Cantu indicated he opposed the motion because he doesn't feel the Commission has enough information and doesn't feel comfortable moving forward.**

**4. RZON 18-016: REZONE. Portion of Hatch Division 1 & 5, R3A, R2, RP TO LC.** McLane presented the staff report, a part of the record. Hicks clarified that the access points on 1<sup>st</sup> street would be moved back to Carol. McLane indicated that the 2 access points onto 1<sup>st</sup> street will have to be closed off and an access point through Carol will have to be used and an access point on Woodruff on the far property corner. Hicks asked what will stop traffic from going through Carol. McLane stated that will be a police enforcement issue. McLane stated that the easement would be written just for the one property owner (Ms. Hines) so she could get out of her property without having to use Carol. McLane stated that the decision is for the City Council to make on the vacation of the road and has nothing to do with the rezone. Black asked about the zoning and which lots are going to which zone. McLane clarified that all the lots are going to be rezoned to LC from their current zone.

Wimborne asked how it will work if City Council doesn't approve the vacation of the street, and Planning Commission has recommended the approval of the zoning. McLane stated that he wrote the recommendation to be recommended for approval only if the vacation is approved by City Council and the meetings will have to go to City Council at the same time to proceed.

Wimborne opened the public hearing.

**Applicant: Erin Canon, 1313 Pebblecreek Court., Idaho Falls, Idaho. (Proxy for applicant Dean Mortimer, 7403 South 1<sup>st</sup> East, Idaho Falls, Idaho).** Canon read a statement from the applicant: Mortimer owns the office building and two single family dwellings that are in the rezone request. Mortimer indicated they have worked hard to consider all options and the concerns expressed to make it possible for rezone and redevelopment of the property. Mortimer indicated that they are trying to minimize the impact and the closure of half of Carol Ave, will provide the way to decrease impact while still allowing for redevelopment. Mortimer indicated he contacted the owners of 160 Carol and 130 Carol, and Commerce Properties has purchased

the dwelling at 160 Carol, 130 Carol has not sold. Mortimer believes the vacation of Carol makes the rezone more feasible.

Dixon commended the applicant for thinking outside of the box to create a different approach to the problem. Dixon asked if a traffic study has been done. Canon was unaware of a traffic study that has been done to see what type of an impact the rest of the neighborhood would experience with out Carol.

Black asked if there has been a neighborhood meeting. Canon was not sure and indicated that Mortimer had attempted prior to the original request. Black asked if the plan is to tear down the two residential properties. Canon indicated that in the future that is the intent of the redevelopment. Black asked, and Cramer agreed if the homes are not torn down, they stay residential.

### **Opposition:**

**Laura Watlington, 330 Joan Ave., Idaho Falls, Idaho.** Watlington stated that this area is residential, and the applicant wants to encroach commercial into the residential neighborhood including families, elderly, and handicap. Watlington stated that they are opposed to the commercial coming to their neighborhood. Watlington stated that people purchased homes to live in a quiet residential neighborhood and did not think they would have commercial encroachment. Watlington stated that they will fight. Watlington stated that City Council has already turned down the rezone for this area twice. Watlington stated that Mortimer told her at the last meeting that he'd be back. Watlington asked the Commission to turn down the application. Black asked Watlington if she was invited to a neighborhood meeting by the applicant. Watlington indicated she was not invited to a meeting.

### **Support:**

**Travis Benson, 3510 Sycamore Circle, Idaho Falls, Idaho.** Benson is part of the team that has been trying to purchase the property for the last 4-6 months. Benson indicated that a lot of residents showed to the City Council meeting and the applicant tried to take away from that meeting the concerns that were voiced, which primarily were traffic cutting through Carol to get to the other intersection (Caribou and Woodruff). Benson indicated they met with different members from City Staff and trying to come up with a plan that is a win/win. Benson stated that according to BMPO the intersection has 35,000 – 36,000 cars per day as of 2013. Benson stated that when the Hatch subdivision was created Carol made sense, but now that road so close to the intersection it does not make sense. Benson stated that the intersection is a dangerous intersection and carries a lot of traffic. Benson stated that they want to develop the property and to do so the property must be rezoned, and they believe this solution will be a win for the neighborhood and eliminate all the traffic that they've complained about going through Carol to cut off to Caribou, and there will be no commercial traffic going through Carol.

**Bruce Rose, 409 Ruth, Idaho Falls, Idaho.** Rose asked if they are taking opposition or support at this time.

Wimborne indicated that they generally take Support than opposition, but that was not made clear.

**Brent Butikofer 3971 E 460 N, Rigby, Idaho.** Butikofer represents the applicant (Dean Mortimer) and is the commercial broker on the property. Butikofer stated that the public testimony at the last meeting was that the “sickness is already among us”, meaning everybody was cutting the corner through Carol and bombing through the pleasant neighborhood and it was already an issue. Butikofer stated that the applicant tried to come up with a way to make this area safer for the neighborhood. Butikofer stated that you cannot have it both ways with a safer neighborhood without taking measures to increase the safety. Butikofer stated that the new proposal will prevent public from turning onto Carol to cut the corner. Butikofer stated that the public testimony was largely directed towards the traffic problems that are currently in place. Butikofer stated that closing Carol will be a win/win scenario. Butikofer stated that if they tear down the old building and make a new building it still does not make the corner safer because of the curb cuts onto 1<sup>st</sup> and the only way to make the corner safer is to assemble more land mass, spread the curb cuts farther from the intersection and limit traffic down Carol. Butikofer stated that when they redevelop the corner will be safe with the elimination of the two curb cuts onto 1<sup>st</sup> Street. Butikofer stated that this is a proactive approach, and 3 of the 4 homes that are affected by the vacation of Carol are owned by applicant. Butikofer stated that urban redevelopment cannot be accomplished without redeveloping the urban areas. Butikofer stated that this is a commercial intersection with high traffic and commercial properties on all 4 corners and this is a positive way to redevelop the corner and close traffic on Carol that will minimize the traffic impact in the neighborhood.

Black asked what the buffering requirements would be for the redeveloped property. Butikofer deferred to Staff, but indicated that the greenscapes are way outdated and currently no requirement for trees. Butikofer stated that the rezone would require them to come up to code for landscaping which will be more grass and more trees. Black asked if the applicant held a neighborhood meeting. Butikofer stated that the applicant sent out two emails to one individual in the neighborhood requesting email information to establish a neighborhood meeting and he got an affirmative email back denying access to the emails. Butikofer stated that they are happy to hold a neighborhood meeting.

Dixon asked that as people testify, he would like to know if they use the intersection of Carol and if you ever find yourself needing to go to Hatch Drive to get onto 1<sup>st</sup> Street, or to Caribou to get onto Woodruff, rather than using Carol.

**Chris Pertinoli, 251 Calistoga, Idaho Falls, Idaho.** Pertinoli represented the applicant in the purchase of 160 Carol. Pertinoli commended the applicant for handling this rezone and thinking outside of the box and do what is best for the residents by offering them an opportunity to discuss things. Pertinoli stated that there hasn't been a neighborhood meeting, but there have been efforts to reach out and make connection to the people that will be impacted.

### **Opposition:**

**Bruce Rose, 409 Ruth, Idaho Falls, Idaho.** Rose indicated that the neighbors had a meeting together Sunday night in preparation for today's meeting. Rose stated that only two people were present in June in opposition and the neighborhood was unprepared. Rose asked the audience to stand if they are opposed. Wimborne stopped him and asked him to address the comments to the Commission. Cramer conferred with Wimborne. Wimborne stated that some of the information that was shared with the community was to show that by a raise of hands. Wimborne asked if Rose could provide his testimony and then as he ends he can ask those who are opposed to raise

their hands. Wimborne clarified that the goal is to get information to send to City Council. Rose stated that the agenda item is for a rezone and doesn't have any information on site planning, or access management or right of way. Rose stated that it is disturbing when they showed the photo of Walgreens on 17<sup>th</sup> Street, because it is not pertinent to a rezone in the Hatch addition. Rose asked the Commissioners to vote to deny the application. Rose stated that the residents of the neighborhood are perceiving a threat to the quality of life in the neighborhood.

Rose read 3 letters that he entered into the record: (1) Paul and Jodi Meigio, 447 Ruth Ave. (The Letter is within the record). The letter asked for denial of the application as they are concerned about the value of their home declining, the additional traffic in the neighborhood. (2) Blaine Ward, 605 Masters. (The letter is within the record.) The letter indicated they are in objection to the proposed zoning as they believe the rezone will affect the neighborhood and the value of their home and believe that the development should move elsewhere in the City and it is not needed or wanted in the neighborhood. (3) Tracy Taylor, 1875 Joan. (The letter is within the record). The letter asked for denial of the rezone request, as the rezone request would negatively impact the Hatch Addition, including increased noise, night light pollution, and safety concerns for residents regarding traffic.

Rose stated that the developer wants a commercial configuration from the corner of 1<sup>st</sup> Street and Woodruff to the property line of 130 Carol, although they have not been successful in buying the property at 130 Carol. Rose stated that is a large commercial development that will demolish 4 houses and a street and will result in a lost entrance to the subdivision. Rose read through some permitted uses in LC Zone including, liquor store, thrift store, lube shop, storage units, etc. Rose indicated that he heard the developer wants to put a car wash in the area and Rose doesn't believe that use would fit in well on that corner. Rose stated that the neighborhood needs nothing new and is not asking for anything on the corner. Rose stated that they are getting used to the current traffic configuration. Rose stated that the traveling public on 1<sup>st</sup> and Woodruff need nothing on that corner, as anything that is a permitted use in LC they can get somewhere else very closely. Rose stated that he doesn't feel that this is win for the neighborhood. Rose stated that the developer will gain a profit and improve in their investment. Rose asked the Commissioners to leave the Hatch residential zones alone.

Cramer clarified that they do send out a publication "How to Testify and Make it Count". Cramer indicated that the wording states that many neighborhood groups have organized their testimony by having 1 or a few people speak on behalf of the group and the leader may ask those in the audience that support the testimony to convey the seriousness of the issue. Cramer stated that if there is someone in the audience that represents the group that would like to ask those in support of their testimony to stand that is encouraged. Dixon stated that used to be discouraged as the Commission is interested in the information, not a "vote". Swaney stated that when the person begins to speak on behalf of the group the group needs to stand so we know what group he is speaking on behalf of. Swaney added that the Commissioners represent the City not just the residents of the Hatch Subdivision and the Commissioners must consider all residents of the City.

**Bruce Rose, 409 Ruth, Idaho Falls, Idaho.** Rose indicated he did not state that he represents the group, and he would like everyone to have their own opportunity to speak.

**Don Beckman, 253 Masters, Idaho Falls, Idaho.** Beckman stated he is deathly opposed to the zone change because of the vacation request of Carol. Beckman stated that Hatch St. comes

right into his house on Masters Drive, and the traffic will increase on Hatch. Beckman stated that the traffic goes fast, and if Carol is closed off there will be more traffic down Hatch. Beckman stated that if Carol is closed and there is an emergency it requires a longer drive to get into the neighborhood. Beckman stated that once the zone is changed from residential to LC that opens the gate to keep going and it will spread like a cancer down 1<sup>st</sup> Street. Beckman stated that the residents in the area are older on fixed incomes and this development will impact their home and property values and they cannot afford to sell and move somewhere else. Beckman stated that giving the property owner from 130 Carol a small easement onto Carol is not right. Beckman stated that developers are like boa constrictors and will squeeze you out of existence. Beckman asked the Commissioners to vote no on the zone change. Dixon confirmed with Beckman where his home was located on the "T" of Hatch and Masters.

**Dick Jenkins, 1932 Masters, Idaho Falls, Idaho.** Jenkins has lived in his home since 1976. Jenkins stated that the community is nice with a lot of elderly and retired, and a lot of kids. Jenkins stated that changing the zoning would be a detriment and they do not need another business in the area. Jenkins stated that the property value would decrease, and traffic would increase. Jenkins stated that there are 4 exists/entrances and if one is closed (Carol) it would leave one exit onto 1<sup>st</sup> Street. Jenkins stated that getting onto 1<sup>st</sup> Street from Hatch is hard because of the road coming in on the other side of the canal that the traffic competes with Hatch. Jenkins stated that if he is going to town he will take Carol, and if he's going towards Hitt Rd. he will go to Hatch. Jenkins stated that school buses use Carol. Jenkins asked the Commissioners to vote no.

**Bob Haskins, 1870 Joan Drive, Idaho Falls, Idaho.** Haskins has lived in the area for 3 months. Haskins stated that he was a real estate broker for 40 years in two states and has seen this type of thing happen before. Haskins stated that he has never seen a zone change intrude into an established neighborhood that benefits anyone except the developer. Haskins stated that this rezone will not even benefit the City as established neighborhoods are a benefit to established businesses, and they are the customers. Haskins asked if the developer is indicating that if they increase the development on the corner, it will decrease traffic. Haskins stated that "death of a neighborhood by 1000 cuts" is how you destroy neighborhoods. Haskins stated that zoning started as a general policy to increase home ownership. Haskins talked about a Supreme Court Case about a rezone from residential to commercial, and the Supreme Court Judge stated that "it is reasonable for a community to enact laws to keep the pig out of the parlor even if pigs may not be prohibited from the entire community." Haskins stated that zoning is to segregate uses that are thought to be incompatible and is a permitting system to prevent new developments from harming existing development to protect land values. Haskins indicated that a neighborhood that is in transition will affect property values. Haskins indicated that if the Commissioners would not want this in their neighborhood then they need to vote no. Haskins stated that if the Commissioners value neighborhoods they can help limit sprawl and they do not have to build infrastructure into the toolies. Hicks stated that the Commissioners are not elected officials, they are volunteers.

**Ron Jordy, 1869 1<sup>st</sup> Street, Idaho Falls, Idaho.** Jordy stated that the vacation of Carol would be like the road near Lowes' that is a one-way street, and a lot of people go the wrong way on the one-way street.

**Eva Hines, 130 Carol Ave., Idaho Falls, Idaho.** Hines indicated that she did not sell to Mortimer. Hines stated that at one of the meetings the testimony on the increase of traffic was going to be because of the rezone wanting to put an exit onto Carol Ave., so that would have increased the traffic on Carol making it difficult for the people and the children. Hines stated that the amount of money she was offered for her home, after expenses and mortgage left to pay would not have left her with enough money to buy a house that compares to her current home. Hines stated that she has spent 14 years renovating her home and she wants to stay living in her home. Hines stated that the rezone would cause her trouble getting in and out of her house. Hines indicated that she would be concerned about her mail, utilities and if there was an emergency at her home, how would people reach her. Hines stated that her big window in her living room would have an ugly view of a new business. Hines stated that the community is more important than the individual, and this rezone will not benefit the community of the Hatch Division.

**Vernal Biel, 1870 Caribou, Idaho Falls, Idaho.** Biel stated that he works part time for School District #93 driving school bus. Biel stated that they are in and out of that subdivision at least 4x a day and 2 special needs buses in every day. Biel stated that coming off Hatch is like a freeway, and someone will get hit by a car passing a school bus.

**Teresa Pope, 8780 South Yellowstone Highway (own 191 Carol), Idaho Falls, Idaho.** Pope stated that she agrees with every person that has spoken in opposition and requests the Commissioners to deny the petition.

**Nancy Seamons, 289 Carol Ave, Idaho Falls, Idaho.** Seamons stated that if this goes through she'll lose her house. Seamons stated that she goes in and out of Carol and occasionally she must wait a few minutes, but traffic is polite and will let you out of Carol. Seamons stated that she has no trouble getting out. Seamons stated that she loves her home and she will lose everything that she has if the rezone goes through, and she cannot afford a new home. Seamons stated that if the rezone goes through she will be forced to give up everything she has worked for, and that is not fair. Seamons stated that there are new families that just moved in and the rezone will uproot the entire neighborhood. Seamons stated that developers do not take into consideration what is important to the neighbors who are tax payers. Seamons stated that they have a good, clean, safe neighborhood. Seamons stated that commercial will destroy the 215 homes. Seamons pleaded to the Commissioners to deny the application. Black asked Seamons which house is hers on Carol. Seamons showed it is north of the homes that were purchased.

**Dillon Erickson, 320 Carol, Idaho Falls, Idaho.** Erickson has lived in the neighborhood with his family for 1 year. Erickson asked the Commissioners to recommend denial of the rezone. Erickson stated that if the rezone doesn't go through the status quo will remain with R3A and residential and the concerns of the neighbors will be taken care of. Erickson stated that someone can fix the traffic, by possibly tweaking the light at Woodruff and Caribou. Erickson stated that R3A has a lot of permitted uses including semi-commercial. Erickson stated that the easiest option is to do nothing and use the current zoning that will accomplish the goals of the City's Comprehensive Plan. Erickson stated that rezoning is a gamble and trying something new to see if it works. Erickson stated that they do not want to gamble with the neighborhood and families. Erickson stated that the Commissioners should not put the message out to the City that they value commercial development/zoning over residents. Erickson stated that the status quo is working. Erickson stated that commercial will reduce the value of the surrounding neighborhood



and the projection is to have more light commercial encroaching into the neighborhood, and they do not want more commercial in their neighborhood. Erickson stated that the rezone is unnecessary and asked the Commissioners to recommend denial.

Black indicated that apartments would be allowed in R3A and asked if that would be a better use for the neighborhood. Erickson stated that he prefers home owners to renters as renters are another problem and they are not as invested in the community. Black clarified that they are being asked to rezone to limited commercial which opens it up to a lot of uses, but there are things that can be done on the property now and not have to come back to the Commission and would still have the entrances and exits and wouldn't need to do a lot of new landscaping, Black asked if Erickson would be opposed to that development staying with the current zone. Erickson indicated that it is the developers right to do something that is permitted within the current zone. Erickson stated that he is opposed to steps going closer to commercial. Black clarified with Erickson that he is opposed to the zone, not just the changing of the property. Erickson stated that he is not willing to have it rezone to the limited commercial and is more comfortable with the R3A that allows some commercial.

Hicks asked if Erickson objects to the road being blocked, or only the rezone. Erickson stated that if something must be done and it goes to light commercial and the road must be blocked that is the least terrible option, but any change of the zone is a terrible option.

**Les Pope, (owns 191 Carol, Idaho Falls, Idaho).** Pope stated that the commercial zone will devalue his property as well as everyone else. Pope stated that there is a lot of support in the community for denial. Pope stated that when they went to City Council the Mayor stated that they would investigate the problem with the access to Carol off 1<sup>st</sup> Street, and the idea of the developer vacating the street without having to pay for it is new.

**Carlan Mullen, 640 Masters, Idaho Falls, Idaho.** Mullen stated that he is concerned about the maintenance of the other half of the street if it is vacated. Wimborne asked Mullen to limit his comments to the rezone, as the vacation will be held separately with City Council. Mullen stated that there have been discussions about vacation of the street, and that is part of the zoning change. Wimborne stated that the vacation is not part of the zoning change, and the only thing before the Commission is whether the property should be rezoned to LC. Mullen stated he is concerned about the maintenance and snow removal.

Dixon stated that the item on the agenda is only for the rezone, but the staff report has a memorandum from the right of way agent to the utility engineering about vacation of the street. Wimborne stated that is part of the staff report because of the issue in the original presentation in June about the access to Carol, but this Commission cannot make decisions about the vacation of the street. McLane stated that the memorandum was included in the application to make the Commissioners aware that they are requesting the vacation from the City Council, and this Commission has no recommending authority on the vacation. Dixon stated that if they are not supposed to consider it, then having it in the packet adds confusion. McLane stated that he is only trying to provide all the information that is out there to the Commission. McLane stated that they should consider it and be aware of it as it is pertinent to the rezone, but the Commissioners have no authority to make recommendation on the vacation. Dixon asked if the Commissioners have the authority to recommend anything they want, but do not have the authority to make any decisions. McLane agreed with Dixon that they do have the authority to

make a recommendations and changes to proposals and add conditions as part of their recommendation.

**Debbie Eirick, 1941 Caribou, Idaho Falls, Idaho.** Eirick stated that the neighborhood is wonderful, and everyone takes very good care of their homes. Eirick stated that they have always put money into their home. Eirick stated that the reason to live there is to have pride in ownership and they all have pride in ownership. Eirick stated that if they switch the zoning to commercial the pride will be lost. Eirick asked the Commissioners to deny the rezone and allow them to keep their pride.

**Jim Gokus, 470 Masters, Idaho Falls, Idaho.** Gokus stated he has lived in his home for 37 years. Gokus stated that he is against the rezone for all the reasons that have been mentioned. Gokus stated that it is coincidental that today is Patriot's Day and the right to life, liberty and the pursuit of happiness went through his head and the average citizen that manifests itself in home ownership. Gokus stated that the neighbors are happy and comfortable. Gokus stated that it is a good place to live and he believes that any commercial development in the area will be a detriment to the neighborhood. Gokus asked the Commission to not approve the request for rezone.

**Gene Lund, 346 Carol, Idaho Falls, Idaho.** Lund showed his house on the map on the east side of Carol and the last of the R-1. Lund stated that the neighborhood community has successfully made the transition to stagnation to the introduction of new and younger families so there is a vibrant mix that is ongoing in the neighborhood. Lund stated that the neighborhood community is growing. Lund stated that the change in zoning would make a negative impact on the neighborhood. Lund stated that he goes through Carol often, and there are times during the day that he does not and goes to Caribou to hit the light. Lund stated that traffic is in the neighborhood, but the people that are speeding in the area would speed anywhere. Lund clarified that he is in opposition.

**Roger Buchanan, 349 Ruth, Idaho Falls, Idaho.** Buchanan is in opposition to the change in zone. Buchanan indicated he wasn't involved in the first zoning discussion that was declined and there was testimony about the problems of traffic. Buchanan stated that he has lived in this area for 28 years going past Carol and if this proposed change is allowed it will impact the traffic going in front of his house on Ruth. Buchanan stated that it would negatively affect his value of his property and he is in opposition of the rezone.

**Tod Havens, 6118 Masters, Idaho Falls, Idaho.** Havens is opposed to the rezone. Havens stated that the vacation of Carol will increase the traffic on the other 3 access points into the area. Havens stated that the vacation would only give one access to 1<sup>st</sup> Street which is in competition across the canal with Cascade going into the other subdivision. Havens stated that all traffic must go to Caribou or Kearney, and Kearney feeds the other subdivision. Havens indicated that he uses Carol to get into the subdivision. Havens stated that he is concerned that the vacation of Carol will cause Hatch to be too busy and the speed of the traffic is out of control in that area.

**Brandon Hernandez, 266 Carol, Idaho Falls, Idaho.** Hernandez stated that they are strongly opposed to the rezone of the property. Hernandez stated that he likes the area he lives.

**Charmin Tibbits, 385 Masters, Idaho Falls, Idaho.** Tibbits stated that she is upset that the rezone is back in less than a month. Tibbits asked what they must do to make him stop because

they don't want to be at a meeting every month. Tibbits stated this is a nuisance that he is trying again because he was defeated, and they believed the problem was solved. Tibbits stated that if Mortimer keeps coming until he wins, the neighbors will be there every month because they do not want him to win, they want their neighborhood. Tibbits stated it is not fair. Tibbits stated that the rezone will not benefit any one in the hatch edition and it will not benefit anyone in the community. Tibbits stated that if zoning laws are written in the sand and they blow away when the wind changes, then no one can buy a house in the City and plan on raising a family and living there.

**Donna Hevalen, 1921 Caribou, Idaho Falls, Idaho.** Hevalen is opposed to the rezone. Hevalen has lived in the area for 20 years. Hevalen has enjoyed the area and does not want this to go through. Hevalen begged the Commissioners to not let the rezone go through.

**Sheri Gokus, 470 Masters, Idaho Falls, Idaho.** Gokus stated she is opposed to the rezone. Gokus stated that if they want to develop something then they should choose some where that is not within an established subdivision. Gokus stated develop an empty field that will not impact people's lives and homes. Gokus stated that they have lived in their homes for 37 years and they don't want to lose their area. Gokus stated that if the rezone happens she believes they will then begin taking more of the road, and more of the subdivision.

**Christin King, 310 Joan, Idaho Falls, Idaho.** King has lived there for 35 years. King has raised her family and her grandchildren play in the same area. King stated that everyone that spoke in favor of the zone change didn't live in the Hatch subdivision. King stated that the rezone will affect them and that is why there is a room full of people opposed. King stated that there is plenty commercial around the area, and there is no need for another gas station, drug stores, grocery stores, lube shop, small businesses and all the amenities that are needed for a subdivision are already in place. King stated that if they wanted to produce more business they would go someplace where their business is needed. King stated they are not anti-business, but they are pro-neighborhood. King asked the Commissioners to oppose the rezone.

**Applicant: Brent Butikofer, 3971 E 460 N, Rigby, Idaho.** Butikofer spoke on behalf of the applicant. Butikofer stated that they are not trying to ruin this wonderful neighborhood. Butikofer stated that 1 month ago the testimony was that there was already too much traffic on Carol and they cannot have it both ways. If they want it safer they must take measures of safety. Butikofer stated that this plan is a plausible middle ground. Butikofer stated that it will mean some diversionary traffic patterns, but the corner as it currently stands, is unsafe. Butikofer stated they cannot move the curb cuts without assembling more ground, and they cannot assemble more ground without a rezone. Butikofer stated that it might be an inconvenience for some of the home owners, but it will make the corner safer for everyone. Butikofer stated that as a commercial broker he cannot lease that building as it is on the corner because of the parking and the access points being so difficult and the building will continue to get worse because it was built and designed for the 1970's. Butikofer stated that the answer to the problem is move the curb cuts and rezone the corner. Butikofer stated they can make more grass and trees and make it very beautiful. Butikofer stated that as they commit toward the patten of urban redevelopment and try to preserve the neighborhoods there is going to be some inconvenience on the neighbors, but the overall corner would get much safer. Butikofer stated that if Carol is vacated it will stop all the non-neighborhood traffic going through that area.

Wimborne asked staff to answer some questions that came up during the testimony.

McLane stated that the buffering requirements for the LC zone have 20' landscape strip with trees for any area that is a street front, and the buffer for LC zone between residential uses it is a 20' landscape strip with trees or a 10' landscape strip with an 8' fence or wall. Black asked what the buffer would be on Carol. McLane stated that it would require the buffer all the way around to buffer the residence. Black asked if a carwash is allowed in the LC Zone. McLane stated that last meeting they changed the use table and a carwash is a conditional use in the LC Zone. McLane stated that the staff report does not have the up to date table. Black asked if the CUP would come before the Planning Commission. McLane will find out if it is an administrative CUP or if it requires planning commission approval. Wimborne asked about the property on east side of Carol and asked if it was part of the rezone. McLane confirmed that the property that the applicant owns on the east side of Carol is not part of the rezone, and only the two residential properties on the west side of Carol. Wimborne asked about the emergency access concerns. McLane stated that he has talked with the Fire Marshall's office and it is required to have two access points for any development over 30 units and his concern is the location of the fire hydrants and that is something that will have to be addressed in the redevelopment of any proposed changes to the roadway. McLane stated that there is a fire hydrant on Carol that will have to be relocated and an additional fire hydrant would need to be relocated on 1<sup>st</sup> Street. McLane stated that the CUP on a car wash would come to the Planning Commission for approval.

Denney asked if the Commission will be able to see a preliminary plat. McLane stated that the property is already platted unless they are creating more lots they won't have to re-plate. Denney asked about the lighting concern that was voiced. McLane stated that there are restrictions in the City Code that states all lighting must be shielded so the glare does not go off the property.

Wimborne closed the public hearing.

Wimborne indicated that the Commission has an application for rezone of the lots to LC and the staff recommendation includes mention of the right of way on Carol.

Dixon stated that he was the source of the suggestion of Walgreens because when he looked at the original application, a motion was made that would only allow the rezone of  $\frac{3}{4}$  of the land and the last  $\frac{1}{4}$  stay residential, so they could put up a wall like Walgreens to protect the residential from commercial. Dixon stated that he was under the impression that the neighbors had a problem with cut through traffic and that the vacation of Carol would block the cut-through traffic. Dixon stated that he has been against this development dumping new traffic into the residential neighborhood. Dixon stated that the testimony tonight suggested that cut-through traffic isn't the problem and most of the traffic is from the residents that live in the neighborhood. Dixon stated that the vacation of Carol seems to be detrimental rather than an improvement to the neighborhood. Dixon stated that there shouldn't have new commercial dumping into a residential street and therefore opposed to the request.

Black stated that she missed the last meeting on this rezone. Black stated that traffic is an issue and every time there is a hearing with residential the Commissioners hear about traffic. Black stated that she understands the traffic issues especially on 1<sup>st</sup> Street because she resides near 1<sup>st</sup> Street. Black stated she is surprised about the comments about developers because without developers there wouldn't be WinCo, Smiths, Maverick and all those things that are great conveniences for the neighborhood. Black stated that she gets concerned when there are a lot of

subdivisions being approved and there is no commercial to support the new homes. Black stated that the change will create a great addition to landscaping and an improvement to the property. Black stated that it has encroached on the neighborhood by taking two homes, but R3A is an inappropriate zoning for the corner of 1<sup>st</sup> Street and Woodruff as there is commercial on every other corner. Black stated that multi-unit homes could go on the property and that would be different from commercial. Black stated that R3A on the corner of commercial on a large intersection is not good.

Swaney stated that the developer has invested the money to buy the property and to try to use the basis of free enterprise to develop the property, improve it and make money from it. Swaney stated there is nothing wrong, and the theory that this will be a cataclysmic event for the Hatch neighborhood is wrong. Swaney stated that WinCo or Smith's didn't cause destruction to the Hatch Subdivision. Swaney stated that the process of developing and redeveloping property is ongoing and when the City first expanded into the area it wasn't zoned at all and likely where WinCo currently sits was zoned R1 and it was rezoned commercial because they saw that Woodruff and 1<sup>st</sup> street are prime areas for commercial properties. Swaney stated that the developers and investors have a right to expect a return on their investment, and if they comply with the City Ordinances, it may be offensive to some people, but it is hard to reject someone that is complying with the City Ordinances to rezone and redevelop. Swaney is in support of the developer and rezone to LC and it would benefit the community at large.

Josephson stated that he used to live at 391 Carol and is familiar with the traffic and has cut the corner. Josephson stated that he works kitty-corner to the property and occasionally because of the traffic it is hard to get out of his office. Josephson stated that he is opposed to closing Carol because he wants to keep cutting the corner. Josephson stated that the traffic will not be an extreme problem on Carol going in or out. Josephson stated that the two houses that Mortimer owns on the west side of Carol are an embarrassment to the neighborhood and they have been an embarrassment for years. Josephson stated that those properties are detrimental to his building across the street. Josephson stated that Mortimer bought the properties with the intent of improving the corner and improving the property and his other developments create huge improvements to the neighborhoods. Josephson stated that his building that was built next to the residential neighborhoods improved the value of the homes in the neighborhood. Josephson stated that the vacation of Carol is not necessary, but the corner does need cleaned up and a professional office building would be appropriate.

Denney stated that she was at the previous meeting when the rezone was voted down. Denney stated that she understood that the neighbors didn't want traffic from the commercial property to go onto Carol to get out because they wanted to close off the other two exits onto 1<sup>st</sup> Street. Denney stated that intersections like 1<sup>st</sup> and Woodruff are where the City does like commercial properties to go. Denney stated that the fears of the neighbors talking of neighborhood encroachment that everyone will lose their homes. Denney asked if the neighbors are thinking that some developer is going to come in and buy you all out and take over your homes. Denney stated she doesn't see that happening, and the City wants to avoid what happened on 17<sup>th</sup> Street, and that won't happen again as it was a mistake for 17<sup>th</sup> Street. Denney stated that she can see both sides, but the developer owns the property and if he is in compliance with what the City asks, it would be difficult to tell him no he can't do what he wants. Denney stated that the property is going to be developed and the Commissioners want to see it developed in the best possible way. Denney stated that the Commissioners must consider both sides.

Black stated that this developer is asking for a change, but the development will be for the betterment of the area. Black stated that if the property deteriorates it will be more of an issue than if you let a developer go and improve the property with buffers against the residential.

Hicks agrees with Swaney's argument and what is being proposed is within the bounds of the zoning requirements except for the vacation of Carol. Hicks stated that it is not just the developer's property that is being dealt with. Hick stated that he is opposed to this application, because the whole picture has not been completed yet.

Wimborne clarified that Hicks is opposed to recommending the zone change because the issue of the street is unresolved. Hicks agreed with Wimborne.

**Swaney moved to recommend to the Mayor and City Council approval of the Rezone from R3A, Rs and RP to LC for the property specified in the Staff report and following Staff's recommendation to approve the rezone if City Council approves the vacation of a portion of Carol, Black seconded the motion.**

Dixon asked staff how they can rezone a street or half of a street. McLane stated that the reason to rezone half of the street was so if the vacation does move forward with the rezone then the applicant will not have to come back and rezone a sliver of the street to LC after the vacation happened. McLane indicated that the rezone and vacation must go hand in hand at the same meeting with City Council. Dixon asked what the ramification is if half the street is rezoned but there is no vacation of the street. McLane stated that is why he wrote the recommendation that he did that the rezone happens only if the vacation of Carol is approved.

Wimborne clarified with Swaney that his motion would be to follow the recommendation of staff that does address the vacation. Swaney and Black confirmed that is what the motion was. Dixon clarified that the motion is to rezone the properties, including the right of way, but only rezone the street if in parallel City Council recommends vacation of the street.

Wimborne called for a vote on the motion.

**The vote was a tie 4-4 and Wimborne could cast the tie breaking vote.**

**Wimborne voted in support of the motion.** Wimborne stated that she appreciates the way the developer is trying to address the concerns raised in the prior meetings but does acknowledge the heavy impact on the neighborhood. Wimborne agrees with Black's points that there are issues with the current zoning of R3A and in some respects this change to LC with the landscaping requirements will clean the area up. Wimborne urged City Council to spend a great deal of time reviewing the testimony and comments the Commissioners have shared as they make their final decision. Wimborne encouraged the neighbors to attend the City Council meeting.

**The Motion passed 5-4.**

**Dixon, Cantu, Hicks and Josephson opposed the motion.**

Wimborne called a 5- minute recess.

**5. ANNX 18-012: ANNEXATION/INITIAL ZONING. Yellowstone/Poitevin City Initiated, Zoning HC, LC R2.** Beutler presented the staff report, a part of the record. Wimborne asked if

they got good representation from the neighborhood during the public hearings. Beutler stated that they did the hearings at two different times and both were held at the library. Beutler stated that they had 10-15 people each meeting. Beutler stated that in between the two meetings they went out into the neighborhood and did a public outreach event and because of the uses in the area, they did a land use survey and classifying those into the different land uses. Beutler stated that planning and code enforcement went out and hung out in the neighborhood to answer questions. Black asked about the negative comments regarding the roads and sidewalks. Beutler stated that there were concerns regarding storm drainage in the area. Black asked if the property was annexed would there be a timeline to go in and do some of the work. Beutler stated that the maintenance of the streets would become the City's responsibility, so they would fix the potholes and do maintenance, and as far as storm drainage and bringing the streets up to code with curb, gutter and sidewalk that would wait until it was a priority for the City and the funding was available to complete that. Beutler stated that the residents could form a limited improvement district where they would pay for the improvements over a period. Black asked about a park. Beutler stated that the property is still available for a park. Beutler stated that the property was given to the City for a future park and Parks and Rec are still having conversations, but funding has not been identified to make the improvements. Josephson asked about the South corner of Houston and Saturn that is not being annexed. Beutler stated that it was previously annexed into the City. Black asked if Code Enforcement looked at Print Craft Press about their compliance on landscaping requirements. Beutler stated they are addressing that issue with Print Craft Press. Beutler stated that they did plant very large trees, but the trees died, and they have been removed. Dixon asked if any of the land being discussed would need to be dedicated towards the local access side roads that are being discussed on the new configuration for Hwy 20. Beutler stated that it is too early to know. Dixon asked about the LC zoning and what the uses of the structures in that area. Beutler stated that the uses are currently residential. Dixon asked why they are proposing LC. Beutler stated that the neighborhood suggested, and the residential uses could continue indefinitely. Beutler stated it was more appropriate to zone all of Colorado to commercial and then potentially the single unit residential become non-conforming and can continue until there is a change. Dixon asked where there are problems with basalt too close to the surface. Beutler stated that the areas where there is vacant land is likely where there is basalt.

**Applicant= City of Idaho Falls.**

Wimborne opened the public hearing.

No one appeared in support.

Opposition:

**Sherri Jo McManus, 1547 Dartmouth, Idaho Falls, Idaho.** McManus stated that they are talking about building the two-story buildings 300' from her back door. McManus stated that she has already had a sink hole. McManus stated that the issue was the park. McManus stated there are 16 kids on Dartmouth and the guy that owned the property donated to the City to build a park. McManus stated that she has lived in the area since she was 15 and they've been waiting for a park. McManus showed where her home is. McManus stated that the kids are getting in trouble and there are gangs and they need a park. McManus stated that they thought they would take Saturn from Pancheri and go straight to McDonalds. McManus stated that the high school kids take Vassar as a short cut and drive crazy down Vassar to McDonalds for lunch. McManus stated that she has a sink hole and the vibration from the building is bad. McManus stated that a

park would be good. McManus stated that she was going to upgrade to a double wide because she cannot get insurance on a single wide without a foundation. McManus stated she had her double wide all picked out and financing and they were going to move it this fall, and she would be in it right now. McManus stated that Hathaway's went out of business and she lost her financing and she is crushed, so now she is in a '69 trailer that they cannot haul off and it has to be torn down on the property. McManus stated that since they started building the apartments she's got a sink hole that has caused her whole trailer to tilt. McManus stated that she deserved that Double wide and she was going to have a foundation because she was going to upgrade. McManus stated again that the park is the biggest issue.

Wimborne asked if her opposition to the annexation is because of the zoning or just the whole idea. McManus stated that there are no pot holes. McManus stated that there was an issue with Vassar Way running to Saturn and so they gravel it and there is a small stretch and the kids spin cookies. McManus stated that they finally paved that small section. McManus stated that there were other neighbors that wanted to be here, but they were too sick to come. McManus stated that the park needs to be built because the kids have nothing to do. McManus stated that she is a private person. McManus stated that she missed the meeting where they approved the apartments. McManus stated that people are upset about the lighting from Print Craft that blinds everyone on the outskirts. McManus stated that the man's dying wish was to consider a park for the kids. McManus stated that she tried to upgrade and there are old trailers in there and hers fell through and she doesn't know what to do. McManus stated that she feels like blowing her own house up because you cannot insure a single wide without a foundation.

**Daniel Callan, 1490 Carson, Idaho Falls, Idaho.** Callan apologized for his lack of knowledge on this topic. Callan has lived there 15 years and has never seen any real problems with the neighborhood. Callan stated that there were rumors that a developer would come along and buy out all the area as being all commercial would be the best thing for it. Callan stated that it is a mix of things. Callan stated that he owns his home and has concerns about what changes from County to City. Callan stated that he is in the process of remodeling his home on a fixed income. Callan stated that he has concerns about the road being made to go all the way through. Callan stated that he has concerns about Saturn going all the way through and people will use it for a cut through. Callan stated that the commercial along the freeway and the ends of the street will make a lot of traffic and it will change things in the neighborhood. Callan stated they are used to driving to Broadway and there isn't a lot of traffic.

Wimborne clarified that Callan's concern is the LC zoning for the section. Callan stated that he is concerned with all of it and not sure why they want to change everything.

Wimborne closed the public hearing.

Black stated that normally annexations like this are for an area that you do not see the need, but in this area, she will strongly recommend to the Mayor and City Council that if this is annexed with the zoning that the neighborhood has requested that the City needs to give it some attention, including the park and the enforcement issues in the area.

Swaney seconded Black's comments as a lot of the concerns brought up were about people that were already City residents. Swaney stated that the City has a responsibility to the current and future residents of the City to follow through with the services. Swaney stated that it is not a



burden to be annexed into the City it should be a benefit to the people to be annexed into the City.

Hicks agreed with Swaney and Black and indicated that it should be part of the recommendation that the City needs to follow through with taking care of what has been incorporated.

Dixon agreed with all comments and indicated that this area of the City deserves more attention. Dixon stated that as they consider adding more to the area it needs even more attention. Dixon is concerned about the LC zoning and if that moves forward then they need to tie the annexed properties into the properties that are farther west so that it is a cohesive thing. Dixon stated that there is currently a gap and a park could provide that cohesiveness. Dixon stated that he is not convinced that LC will achieve anything. Dixon stated that it would make sense to have everything east of Colorado LC and everything west be residential.

Swaney stated that part of this is along the Freeway and asked if something was going to be built in the area would that come back to the Commission. Wimborne indicated that annexation is on the table and approving the zoning, so if the proposed zoning goes through then if someone wanted to build something commercial along the freeway it wouldn't come back to the Commission.

Black stated that Camping World and the Storage area next to it was zoned high density housing and no one wanted to live next to the freeway so LC in the area does make sense and is appropriate.

Wimborne stated that if staff has gone out and done a lot of outreach with two public meetings and walking through the neighborhood and LC is the recommendation from the residents then that should be respected. Wimborne applauded the staff for doing the outreach on this annexation.

Dixon stated that the people that want LC likely don't live there, but own vacant land in the area. Dixon was concerned about the actual people living in the area and what they want.

Beutler stated that they were a little surprised at the neighborhood meetings, but it is an opportunity to see redevelopment and that will bring curb, gutter and sidewalk, with landscaping and improvements that will benefit the entire area and bring the entire area up. Beutler stated that the line is jagged, and if someone wanted to do residential development they could come and ask for a rezone and even the line. Beutler stated that staff recognized that these are the properties that are most likely to redevelop, and they addressed those and then they can follow the market and property owners request for a rezone when it is needed.

Dixon stated that if they want to do LC they need to tie the remainder of the neighborhood to the neighborhood on the west.

**Swaney moved to recommend to the Mayor and City Council approval of the annexation and initial zoning of HC, LC and R2 for the property as presented and specified in the staff report, Josephson seconded the motion and it passed 7-1. Dixon opposed the motion.**

Dixon indicated he is in opposition because he feels conditions needed to be added to the motion to do something to help the residents with curb and gutter and other issues.

Wimborne added and echoed the comments made that as the properties are brought in they need to be taken care of. Wimborne stated that there have been concerns raised during the testimony that the lighting from Print Craft Press is too bright. Wimborne added that they need to encourage Parks and Rec to consider the piece of property that has been discussed becoming a park for a long time.

**Miscellaneous:**

None.

Wimborne adjourned the meeting.

**Respectfully Submitted**

**Beckie Thompson, Recorder**