

April 6, 2021

7:00 p.m.

Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Brent Dixon, Gene Hicks, Lindsey Romankiw, Natalie Black, George Morrison (late tech-difficulties), Joanne Denney, Arnold Cantu.

MEMBERS ABSENT: Joanne Wimborne

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

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

CHANGES TO AGENDA: None.

MINUTES: Hicks moved to approve the Minutes of the February 16, 2021 and March 2, 2021 minutes, Cantu seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Romankiw, yes. and it passed unanimously.

Business:

1. PLAT 21-009: FINAL PLAT. Final Plat for Sand Pointe Division No. 4.

No Applicant appeared.

Caitlyn Long presented the staff report, a part of the record.

Black moved to recommend to the Mayor and City Council approval of the Final Plat for Sand Pointe Division 4, Denney seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Romankiw, yes. The motion passed unanimously.

2. PLAT 21-012: FINAL PLAT. Final Plat for Good Harbor Subdivision.

No Applicant appeared.

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

Dixon asked if they are required to build the bridge over the canal as part of the development agreement. Foster indicated that they are not required at this time because they have plenty of access, but they thought it would be easier for doctors to get in and out through the future Kingwood Addition. Dixon asked if there is a cross access agreement on the private drive of Valencia. Foster indicated that she didn't research beyond where Valencia will be dedicated to the City. Beutler indicated that they do have shared access agreement. Dixon asked what kind of a street section will be developed on the bulb. Beutler stated that it will be a typical cul-de-sac and then there will be a commercial approach to get into the development.

Cantu moved to recommend to the Mayor and City Council approval of the Final Plat for Good Harbor Subdivision, Romankiw seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Romankiw, yes. The motion passed unanimously.

Public Hearing(s):

3. RZON 21-006: REZONE. Comprehensive Plan Amendment for Lower Density Residential and Estate to Higher Density Residential, Commercial, Employment Center for the area around the intersection of W 65th N and N 5th E.

Dixon opened the public hearing.

Applicant: Blake Jolley, Connect Engineering, 1150 Hollipark Drive, Idaho Falls, Idaho. Jolley is trying to follow procedure in modifying the Comprehensive Plan from its current designation as there is change happening in Idaho Falls and this area, they are seeing some different growth. Jolley is requesting an annexation and zone change in the next hearing item. Jolley indicated that the property is zoned R2 in the County and they feel that the Comprehensive Plan Amendment will allow it to keep the same zoning and abilities as the current County Zone and bring it into the City to provide opportunities for the property to be developed in the same manner that it could be in the County.

Dixon asked about the Comprehensive Plan change for the area that is larger than the specific request. Dixon asked why they are requesting the Comprehensive Plan Change. Jolley deferred to staff.

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

Dixon asked about the location for the new interchange and asked where it is relative to 65th North. Beutler stated that the location for the new interchange that ITD is considering would run somewhere south of Fairway Estates running to the west, across the river and connect with the mix of employment center. Beutler stated that it will connect with the interchanges. Dixon asked if there is a plan on the books to put another change further to the north once demand grew. Beutler isn't sure of that exact alignment. Dixon asked if 5th North is a Highway. Beutler stated that it is a County section road that is classified as an arterial. Dixon asked if BMPO identified for a north loop road similar to York on the South. Beutler stated that BMPO is in the middle of a strategic arterial planning process and they will be starting that plan this year. Currently the plan talks about a belt route system and the north belt loop goes along 33rd which is south of this area. Beutler stated that they have learned that because of the airport and restrictions the option for 33rd to act as a belt loop road is out, so it is going to have to go north, and if there were going to be a strategic arterial road it would most likely be on the same alignment that ITD is looking at with US 20.

Hicks asked if 15th North is Lewisville Hwy. Beutler confirmed that it is the Lewisville Hwy. Hicks asked if this would lend more credence to a bridge to the Lewisville Highway from the canal along the Highway into Fairway Estates. Beutler stated that the bridge over the canal to Fairway Estates will occur as development in Fairway Estates happens. Beutler stated that the change in the Plan for this area it wouldn't have an impact on the bridge on Fairway Estates.

Black asked about the hatch pit area. Beutler stated that the City owns the area and once the dump closes there is potential for that to become open space of some sort. Black asked if there are any park designations in this area, other than the Golf Course. Beutler stated that they just had the neighborhood meetings, and it is not part of this proposal. Dixon stated that once the hatch pit is closed it will be reclaimed by the City similar to Freeman Park.

Dixon asked why they are putting employment center in the middle surrounded by Commercial, when usually these nodes are commercial in the middle surrounded by employment center and higher density housing. Dixon stated that the southwest corner is already zoned commercial, and this Comprehensive Plan Change is identifying it as employment center, rather than commercial. Beutler stated that the comprehensive plan is general in nature and doesn't follow parcel lines, but they are trying to communicate that there should be a mix of employment and commercial at the intersection and it will most likely happen on all four corners of that intersection, but how it will develop is unsure, and this will just communicate the general intentions. Dixon feels it is inverted from what it should be. Beutler stated that they could adjust that if the commission feels it is appropriate.

No one appeared in support or opposition.

Dixon closed the public hearing.

Black feels this makes sense to add commercial and employment centers because there is so much residential. Black isn't sure if she agrees with Dixon's idea of the inverted commercial vs. employment center.

Morrison agrees with Dixon and feels this is confusing showing the overlays and if this is considered to be an overlay, they need a different code to show that if the orange and red and blue all apply on one section, and that isn't apparent, and he agrees with Dixon that they need to flip it. Dixon stated that the hatching is just to show the proposed area. Morrison asked if it is supposed to be inclusive as it appears that the red eliminates the orange, and the blue eliminates the red and it is confusing. Dixon stated they should be considered to be solid colors, and not hatched so the blue is over the top of existing zoned red.

Romankiw stated that as a resident of Fairway Estates she feels this is great and it does comply with the Comprehensive Plan with the plan to put commercial areas in nodes of these major intersections and this is needed to have commercial in this area so that the residents can head north nearer to their neighborhood instead of going south. Romankiw feels it will serve the surrounding neighborhoods well.

Morrison moved to recommend to the Mayor and City Council approval of the Comprehensive Plan Amendment as presented, Romankiw seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Morrison, yes; Romankiw, yes. The motion passed unanimously.

4. ANNEX 21-002: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of R2, Mixed Residential.

Dixon opened the Public Hearing.

Applicant: Blake Jolley, Connect Engineering, 1150 Hollipark Drive, Idaho Falls, Idaho. Jolley indicated that this follows along with the reason that they requested the Comprehensive Plan Amendment (previous hearing). Jolley stated that they are asking for the annexation and initial zoning of 9.86 acres north of Fairway Estates. Jolley stated that this property is zoned R2 in the County and so moving forward that will allow the property owner the same rights that they had in the County if it is zoned R2 in the City, which would fit the recently recommended for approval Comprehensive Plan amendment.

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

Support/Opposition

JD Wilkinson, 135 E65th North, Idaho Falls, Idaho. Wilkinson is concerned that he has verbal agreements that he would have no problem having a right of way across the property for his irrigation. Wilkinson is concerned that the agreement continues to be facilitated.

Dixon asked if the current irrigation is coming across the property. Wilkinson indicated that it is coming across on 2 different spots. Dixon stated that typically for established canals the law indicates that they have to provide for maintenance of the canals unless they are abandoned.

Mike Kirkham, Esq., (City Attorney) agreed with Dixon's interpretation. Kirkham wanted to make sure that the public hearing is not a question/answer opportunity for the public to pose questions to the Commission. Kirkham offered to answer questions for public outside in the hall.

Wilkinson asked where he could get his questions answered. Kirkham offered to visit with Wilkinson and answer questions that he could for him.

Applicant: Blake Jolley, Connect Engineering, 1150 Hollipark Drive, Idaho Falls, Idaho. Jolley stated that everything that is currently being serviced with irrigation water, etc., they will follow the applicable rules and regulations that the State provides for working through that, and they will work through that at the time they propose a development.

Dixon closed the public hearing.

Morrison is confused and asked if the Commission is not here to get information and answer people's questions, then why is it called a hearing. He understood that they were to hear the public out and find out what they have to say about the application. Morrison feels that they need to get the information from the public and if there is a question that they can answer they should answer the question.

Black moved to recommend to the Mayor and City Council approval of the Annexation of 9.86 Acres in the SE ¼ of Section 30, Township 3 N, Range 38 E, with initial zoning of R2, Hicks seconded the motion. Dixon called for roll call: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Morrison, yes; Romankiw, yes. The motion passed unanimously.

5. RZON 21-005: REZONE. Rezone from TN, Traditional Neighborhood and PT, Planned Transition Overlay Zone to HC, Highway Commercial.

Dixon opened the public hearing.

Applicant: Jeff Freiberg, 946 Oxbow Lane, Idaho Falls, Idaho. Freiberg acknowledged that the City Staff does not recommend approval of this zone change application, and Freiberg acknowledges that the HC Zone does not fit the Comprehensive Plan and it would be a spot zoning. Frieberg stated that a precedent has been set. On September 8, 1977 Idaho Falls City Council voted to approve the variance to construct the storage building that exists to the immediate west of this property. Reece Naïve is the owner of this property came before City Council 44 years ago and asked for and received variance needed to build the existing storage unit. Freiberg is asking for HC Zoning as this is zone that would have this type of facility. Freiberg stated that this is a unique property in Idaho Falls as it has no frontage onto a City street, which makes it difficult for anything to be built and definitely not a residential unit.

Friberg feels that without the zone change the property will always be a weed patch. Friberg indicated that Reece Naïve is not able to attend tonight because of illness.

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

Black stated that this is an odd shape and no access, so is an indoor storage facility the only thing that staff can imagine on this property. Black asked what the City expects an owner to put on this. Beutler stated that it could potentially have residential, but any use developed on the property is going to be challenging. Beutler stated that residential might be difficult next to the canal and no frontage except an alley. Beutler stated that HC zone some of the uses allowed would not be good for the area, and they need to look at all uses allowed in the HC Zone even though the applicant has made his intentions known.

Dixon asked what the possible uses for a PUD as it is a conditional use in PT. Beutler stated that PUD today would be residential. Dixon asked if that is a requirement or traditional application of the use. Beutler stated that the challenges with the PUD are there are additional requirements of having 25% common space, amenities and the oddly shaped small piece of ground would be difficult. Dixon asked if its not a residential use who would get the amenities. Beutler stated that they don't do commercial. Dixon indicated that it would be a conditional use. Beutler stated that it would still have to be a use allowed in the zone as they cannot create a use variance like City Council did in the 70's and they would still have to develop something that is allowed in TN.

Support/Opposition:

Chris Lempke, 1620 S. Emerson, Idaho Falls, Idaho. Lempke's home is at the mouth of the alley on Emerson. Lempke has been there since May 1, 1975. Lempke stated that he signed the petition for Reece Naïve in 1977 for him to build the first facility (LBN Storage Facility). Lempke stated that now 44 years later he feels he has shot himself in the foot and asked the Commission to not rezone this to commercial property as there is way too much traffic and too little access. Lempke stated that the 16' alley is too narrow and has a lot of panels, telephone poles, electrical, etc. and that sucks the alley down to 13'6". Lempke has a chain link fence that runs down his property and he has put in a 4" post 4' in the ground and 28 bags of post mix and bolted to his retaining wall to keep people from running over his fence. Lempke stated that the only other traffic in that alley besides the storage units is from guy that lives at the other end of the alley and the garbage people. Lempke stated that he will put up with the weed patch to not have a storage unit. Lempke stated that when they built the canal in the late 50's that property got cut, and it's unfortunate. Lempke suggested building a residential garage, or something like that.

Mark Radford, 825 W 66th South, Idaho Falls, Idaho. Radford stated that this property is a sore eye in Idaho Falls. Radford suggested the Commission ask why they couldn't take the alley way out and build a structure over the canal and have access to 17th Street, because this is prime real estate that could help the City. Radford agrees that the alley way concerns are legitimate, but if you could get across the canal, it could make the property viable.

Jenna Swenson (letter sent and Read by Beutler): A resident of E 16th Street. Swenson stated that the property can only be accessed by the alley and having extra traffic creates a safety risk. Swenson stated that the canal provides a buffer for her neighborhood from 17th Street. Swenson asked Commission to not rezone the area to maintain the integrity of the neighborhood.

Applicant: Jeff Freiberg, 946 Oxbow, Idaho Falls, Idaho. Freiberg agreed with Beutler that developing this property is a challenge, but they feel they can overcome those challenges. Freiberg feels that storage unit facilities are good neighbors. Freiberg stated that storage units are generally quiet. Freiberg stated that they would agree to conditions being placed on the HC Zone that they have to develop something similar to what is there.

Black asked why they don't use the allowed TN Commercial uses. Black asked why they need HC. Freiberg stated that HC is the zone they need to build a storage unit. Dixon stated that page 11 of the staff notes shows the storage facility outdoor and there is only one zone that permits the storage units. Black asked if they could do indoor storage. Beutler agreed that indoor storage would be allowed in the existing PT zone. Black stated that there are options for commercial businesses within the TN zone.

Dixon closed the public hearing.

Morrison stated that HC is meant to be at entrances to the City and this is in the middle of the city and he doesn't agree with this designation for the property. Morrison stated that the storage unit is an eye sore and only a block wall for many feet with no landscaping or anything else. Morrison stated that they could do something else like condos here with alley only entrances. Morrison is against the application.

Hicks agreed with Morrison and indicated that it doesn't fit the definition of HC. Hicks would like to do infill, but it needs to be something that is practical and useable.

Dixon asked what the zone before the City-Wide rezone and would that zone have allowed a use like this. Beutler stated that the zoning prior to the TN was R1 and it would not allow storage units, but the City Council in the 70's did a use variance.

Black agreed with Hicks that they do want to work on infill and help the developers to get rid of the vacant lots, but HC is too far of a stretch. Black feels that there are options in the TN that can give them commercial options.

Morrison moved to recommend to the Mayor and City Council denial of the Rezone from TN & PT overlay to HC, Black seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Denney, yes; Hicks, yes; Morrison, yes; Romankiw, yes. The motion passed unanimously.

6. APP 21-001: Request for Reconsideration. Ivywood West Subdivision.

Dixon asked Council to give a background on this item. Kirkham stated that a party that has been adversely affected by a decision have the right to have the decision reviewed. A request for reconsideration was submitted by Mr. Radford. Kirkham stated that Radford sent a brief detailing the basis for why he believes the Commission should reconsider its decision that it made on March 2, 2021. Dixon asked if this is a request to reconsider or a request to City Council. Kirkham indicated that it is a request for the planning and zoning commission to reconsider its decision.

Applicant: Mark Radford, 825 W 66th South, Idaho Falls, Idaho. Radford stated that this main reason for asking for a reconsideration is pursuant to Idaho Code 67-65352(A) which clearly requires that a planning authority adequately identify the nature of compliance with the express of approval standards. Radford stated that in evidence to the contrary the Commission

failed to explain its findings on Ivywood Plat. Radford stated that there is a citing in the review of the print off on section 1, line item 8 in the Standards Paperwork, that states “The Proposed Development is consistent with the principles of the City’s Comprehensive Plan.” Radford feels that is a blanket statement and he would like to know what are those principles and what has been complied with. Radford wants to point out areas that the plat is not compliant. Radford stated that Adequate Roads and Infrastructure. Radford stated that Commissioner Hicks had stated that he wanted the roads approved and put in before the preliminary plat was approved. Radford stated that the City Attorney had indicated that this is only a recommendation if the City Council follows this recommendation. Radford stated that according to the Idaho Code statute this Commission has to show how the plat is in compliance with the Comprehensive Plan, and adequate roads and infrastructure are part of that compliance. Radford stated that they need to think about the safety and well being of the communities. Radford stated that the road system off of 49th South and Holmes and how many more people have to die or get in bad accidents because of the road and infrastructure. Radford feels the City needs to consider these major subdivisions and say what do we do to solve the problem. Radford stated that 49th and St. Clair have a lot of wrecks due to inadequate infrastructure. Radford stated that they just recently put blinking stop signs in that area. Radford stated that this subdivision will have 590 homes that should house 4-5,000 people and that population is the size of Rigby. Radford stated that they should require the developers to come in and put in the roads, so the community is safe. Radford stated that the 7 units or less in the Comprehensive Plan wasn’t discussed. Radford stated that the preliminary plan has 8 or more in certain segments. Radford stated that part of their motion to reconsider is that the Comprehensive Plan doesn’t allow for higher density homes in this area, and Radford wants to know why that wasn’t shown in the decision. Radford stated that the fiscal impact model only shows fiscal revenue, however what is the cost to provide services such as fire, police as it is an outskirted urban area of Idaho Falls. Radford wants to know what the fiscal impact model shows in regard to cost. Radford didn’t see anything regarding the fiscal impact study that is required by the Comprehensive Plan. Radford stated that there was talk of a park somewhere and the Comprehensive Plan clearly shows that there must be adequate parks. Radford stated that there were talks about pathways and not roads. Radford feels it is important to have the pathways, but priority wise, roads are much more important and public safety is much more important. Radford stated that the accidents happen on Holmes and 49th because they didn’t properly plan infrastructure, and there are no requirements for the roads, and if there was, they would have stop light and 4 lanes. Radford stated that this plat is suggesting that they allow 5000 people to move into this area and keep the same County roads that were designed for the impact from 50 years ago. Radford stated that it is reasonable for him to bring these problems to the attention of the Commission. Radford asked why they aren’t having impact fees for this area. Radford stated that impact fees are in every other state around Idaho. Radford feels they need impact fees as a City Ordinance to require some of this development. Radford stated that it is common sense to have impact fees. Radford stated that impact fees could be ear marked and some of the fees could be used to build schools and all of the kids in this neighborhood would be able to have a place to go to school, but as it stands currently, they have no idea where they will send kids to school because the schools are packed. Radford understands this Commission has no say over education. Radford stated that with the proper structure of impact fees they could address certain things. Radford stated that impact fees could pay for roads, sidewalks, etc. Radford stated that one thing commonly brought to his attention is that the new houses pay for the road infrastructure, but he has since learned that the property taxes don’t pay for the roads,

but rather it's the fuel taxes that pay for roads, and property goes to the City to maintain garbage, sewer, water, fire, etc. Radford asked who will pay for the roads if the developer doesn't. Radford feels it is important to address these things today with the safety, road infrastructure, accidents, etc. Radford stated that when they look at the arterial access that 65th South will provide to the City over time, he feels it is important to address it today and the developer should be required to build his part of the road before houses get built. Radford stated that this same developer has developed in Ammon and Iona and it is a disaster with the roundabouts, and the same roads that existed 50 years ago. Radford stated that the City is on the trajectory that if they don't improve the infrastructure, the roads, and safety, they are on the same road that Ammon and Iona are on when they did all their development. Radford liked that Commissioner Hicks brought up road infrastructure and stated that the infrastructure should be required before this preliminary plat is approved. Radford feels that this day in age they need more tools like turning lanes, lights, wider roads. Radford doesn't want any one to get hurt because they didn't get the correct infrastructure in place.

There was discussion about whether there would be a staff report and Beutler indicated he could answer questions for the Commission.

Hicks stated that the City of Ammon is in the process of annexing 1 square mile south of the current Area of Impact is with a 10-year forecast of 25,000 additional people in that area. Hicks stated that all that traffic has to go west, so that road is having a difficult time handling what it has now, and if you add Ammon's impact and this preliminary plat the roads are going to be difficult. Hicks feels that they have waited too long to acquire the property for the road and now it will cost a lot to do it. Hicks is concerned for the traffic and feels public safety to include traffic should be part of what this commission considers. Hicks is currently the City's representative on the County Planning and Zoning.

Dixon is concerned about the consistency with the Comprehensive Plan versus consistency with zoning. Dixon stated that this property was already zoned prior to this request on the preliminary plat. Dixon asked if the zoning overrides the Comprehensive Plan as being more specific.

Kirkham stated that yes, when there is a conflict between the Comprehensive Plan and the zoning or subdivision ordinance, the zoning or subdivision ordinance controls. Kirkham stated that the Comprehensive Plan does not operate as a legally controlling zoning law, but rather serves as a guide and advice to the government agency responsible for making zoning decisions. Kirkham stated that you cannot deny a use that is specifically permitted by the zoning ordinance on the grounds that such use would conflict with the Comprehensive Plan.

Dixon asked about the development to the east along S 5th W along with developing their own internal roads, what is their responsibility for the main road (S 5th W). Beutler stated that the developer is responsible to construct the road adjacent to their property to City standards, including widening the road if necessary, construct curb, gutter, sidewalk, storm drain, etc. Beutler stated that 5th West was widened and built to City standard and that happens either prior to the issuance of building permits, or the City can take a bond to ensure that when the street improvements are made there are funds for it. Dixon asked if there is the same expectation for S 15th W for this development. Beutler indicated that this development will have the same expectations for any rights of way adjacent, including a portion of 65th, DaVinci Drive, 15th West, the connections to 12th – 9th would also have to be completed to City standards. Dixon clarified that the same road either north or south of the development, the developer has no

responsibility to widen, so there would be a wide road, that would narrow back down. Beutler stated that if they are connecting to the County right of way, they would need to look at that through the traffic study and then also with conversations with the County director to determine what the appropriate way to transition on those roads. Dixon asked about 65th S (York) and the BMPO designation to have that develop as a major arterial and part of a regional belt loop that would be developed as 6 lanes plus a turn lane. Beutler agreed and stated that it is identified as a strategic arterial. Dixon asked if there is an idea of the timing of that project. Beutler stated that as property is being accepted and platted, the City is maintaining the property for the build out. Dixon stated that as far as construction and how many lanes and improvements along 65th S, they will look at the traffic study to determine what might be appropriate. Beutler stated that an example is the subdivision to the west along S 5th W, their traffic study indicated that in the future there would need to be a decel lane on 65th South in order to turn left onto 5th West. Beutler stated that they would look at the timing and those items would be considered and then put into the development agreement. Dixon asked at what point is the traffic study done. Beutler stated that they have requested a traffic study from the developer, and they are working on it.

Black asked if there are impact fees with developments. Beutler stated that the City has an arterial road and bridge fee which is not exactly an impact fee, but it is a fee that is accessed from any development and the purpose of that fee is to look at development of arterial roads because developments have impact beyond their local streets. Beutler stated that with current City Code there is no provision for any other type of impact fee. Black asked if there is any authority that this Commission has that they could require a developer to put in a road or the extension. Black asked for clarification if road construction is within this Commission's purview, or do they only get to look at the traffic study to see what impact the development will have on roads and traffic. Beutler stated that through the traffic study they can require certain improvements if the traffic study indicates that they are warranted. Beutler stated that the challenge is always the mix of City and County, and the City Planning Commission cannot obligate the County Commission to spend money to widen the road in the County. Black clarified that the Planning and Zoning Commission can make recommendations along with the applicant's request. Black asked again what the Planning Commission can request. Beutler stated that the subdivision ordinance does allow the Commission to request additional study of things if they believe it is necessary. Beutler stated that the Commission is provide an executive summary of the traffic study so they can review it, but a City Engineer that has the technical expertise to look at that would address it and determine whether or not it needed. Beutler stated that the Commission does have the ability to address certain things with an additional study, etc., and potentially recommend to the Council specific conditions in the development agreement, but it is only a recommendation.

Hicks asked if the commission has the authority to request that the traffic study be completed and issued prior to the approval of this preliminary plat. Beutler stated that if the Commission felt they needed it to make a determination on the preliminary plat, the Commission could require the traffic study. Beutler added that it depends on the development and traffic studies happen at any time during the process, but the subdivision ordinance does state that they should happen at the time of the improvement drawings, which is during the final plat process. Hicks clarified that the Commission does have the authority to request that traffic study prior to the approval of this request. Beutler agreed and stated that if it was something they felt they needed in order to make a decision on the preliminary plat.

Dixon stated that the State does acquire some funding through gasoline tax, there is a formula that some of that funding is used for State Highways, some is given to Counties, some is given to Cities and the amount that goes to Counties is at a higher rate than cities, which logically makes sense because counties have roads that doesn't have much population density so it costs more to maintain given the tax base, but the real expectation is that is mainly for the main arterials and the City streets are maintained through the tax base of the City. Dixon asked if the developer would develop the local street, and then the City would maintain over time through the taxes. Beutler agreed and stated that the developer makes the initial improvement and construction of the street, and the City then takes over long-term maintenance. Dixon clarified that the funding for the maintenance is from the State gas tax, but primarily from City property tax. Kirkham stated that the real answer is that the State funds are derived from the fuel tax and used for "State type roads" and if you are talking about everyday maintenance on local streets a lot of that funding comes from the general fund for street maintenance.

Dixon asked the City to describe the general thought process behind Parks and development. Beutler stated that the Comprehensive Plan talks about a level of service and park improvements to the City. Beutler stated that this subdivision has 2 very large storm ponds which can be dual purpose for parks and open space provided they have amenities. Beutler stated that they do have a future school site, and the City has looked at schools as a park like facility. Dixon referred to Applicant's item on page 6 where it shows neighborhood park service boundaries. Beutler clarified that the red items are public schools, the blue items are storm ponds, and the neighborhood park is the darker green and the purple is a larger community park like Tautphaus. Dixon clarified that this preliminary plat is showing 2 storm ponds that would be developed as storm pond open spaces and there is a potential for a public school because the school district does own land there for the public school, but no neighborhood park. Beutler disagreed and stated that the storm pond in this area is large enough that they could be considered a neighborhood park. Dixon asked if there is a potential for a larger community park. Beutler is not aware of any large parcels that the City has ownership of.

There was discussion whether they would open the hearing up to public testimony or limit it to only the applicant. Kirkham stated that the applicant (request for reconsideration) is required under the local land use planning act to have an opportunity to express their concerns and the initial applicant gets an opportunity to talk, but beyond that discussion it is up to the commission as to what they will allow. Dixon asked for a general survey among the Commission: Black is mixed and is always in favor of more public comment, but they did just have a public hearing on this item, so she is fine either way; Hicks asked if the testimony would be restricted to the specific request of the applicant, Dixon indicated that yes they need to address the specific request, but they have the option to take additional input from public, Hicks indicated that he is in favor of restricting it to the specific request; Kirkham encouraged the Commission to limit public testimony to the issues that were raised by the request for reconsideration, instead of rehashing the entire previous hearing. Kirkham stated that he would encourage the chair to stop comments if they get beyond the request for reconsideration. Morrison stated that if there are 7 people in the audience and they have come to speak they should be able to speak under the conditions presented by Kirkham. Cantu, Denney, and Romankiw agreed to open the hearing to the public.

Dixon agreed to open testimony to the public and urged them to focus on the items that were brought up in this reconsideration.

Support/Opposition:

Larry Colente, 6767 S 15th West, Idaho Falls, Idaho. Colente supports everything that was brought up by Mark Radford.

Carl Martin, 1059 W 65th South, Idaho Falls, Idaho. Martin is retired ITD Project Manager. Martin stated that Hicks brought up a good point about the 65th South that it is technically unsafe, and Radford also talked about. Martin stated that the City and the County through the BMPO and City request can ding federal funds to widen their portion of the road for safety. Martin stated that the north end (S 5th West) has already been done in the construction phase of that development and it is very nice. Martin stated that 15th West that will impact the lower end (western end) they will have to modify that also. Martin stated that to take 65th South as a main 6 lane arterial, because of the City's power lines and the development clear to the Golf Course and back towards the highway with HK and Depatco, but if you dropped to the next road south and re-aligned to exit 113 and make that the 6 lane it has no development through there, and you won't have to pay a lot of property, then you could shoot clear to the golf course and tie into the rest of 65th South and continue towards Blackhawk. Martin stated that that direction wouldn't impact housing yet and so they can perform their duties on the Comprehensive Plan and that would leave 65th South as a utility easement for the City of Idaho Falls, because they will soon have to replace the bad poles and that can't be done with a 6-lane road. Martin stated that when they widened Sunnyside and the 17th project, by the time it got done widening, and put sound walls, it defeated the purpose, and the City has grown way South. Martin stated that if you are going to do an arterial like 65th North, you need to do it where it won't impact anything and it would force people to go out and down less than ½ mile and tie into the main arterial and shoot to Ammon, interstate, Woodruff, Holmes. Martin's property is next to the Pond, and if you do 6 lanes, his house won't exist.

Dixon asked as part of the development to the east where S 5th West is being widened, is there anything being done on 65th South. Martin stated that the widening part starts in the construction area, and you have Park Road coming in and then it widened out to the housing development. Dixon asked during his career when did he see these roads get widened. Martin stated that it is in a catch 22 situation where you have developers straddling 65th. Martin stated that the area in the City has a turn bay which is inadequate and you are driving over into someone's lawn headed east to give enough room for someone turning into the housing development, and they've had to relocate irrigation and once you start widening 65th the only logical way is to go on the north side of the poles and put 2-3 lanes on that side and 2 lanes on the south side, but you have to protect your poles. Martin stated that the BMPO can go through and designate a racetrack or an arterial around the City (Strategic Arterial). Martin stated that if the strategic arterial is going to cost you more due to previous development, they can shift away from the development to cause future development in given areas where the city and the County can control it but right now, they are controlling just certain areas. Martin stated that the road would be best served for the City and this development by shifting one road south for safety and use 65th with the power lines as the utility easement arterial, which runs all the way around the City.

Bridger Barnes, 989 W 65th South, Idaho Falls, Idaho. Barnes stated that there is a turn lane at the intersection of 65th and Maggie Drive that comes out by 9th, and there is a hill when driving east bound down 65th that makes it impossible to see that turn lane, and there are no signs, and when you crest the hill, everybody just drives right through the turn lane, because to swerve right

you have to cut to somebody's grass. Barnes stated that it was required to be put there for a subdivision on Maggie, so a box was checked, and now everyone in that area has been put at risk because that had to be done, and there wasn't any thought put into how it would affect everything around it. Barnes stated that they moved in less than 1 year ago and because of things starting to pop up they are considering moving out of Idaho Falls.

Doug Tuttle, 6712 S 5th West, Idaho Falls, Idaho. Tuttle stated that a development of this magnitude the Commissioners need to consider the traffic study before this is approved. Tuttle stated that there is too much population that will sack this area in, and without due consideration and prior planning, these improvements need to be done prior to the final approval of this plan. Tuttle stated that it was brought up by Mr. Radford and because of the magnitude of this area it needs to be considered that some land is set aside for parks and recreation.

Kurt Rolland, Eagle Rock Engineering, 1331 Fremont Ave., Idaho Falls, Idaho. Rolland indicated that he is the engineer for the developer, and they are in the middle of a traffic study on this project. Rolland stated that they did get permission from the Engineering Department and they said they would not put the final plat on the Agenda until the traffic study was finished and reviewed by the City so the developer can design what they need to including turn lanes, etc. for this project. Rolland stated that they do have 2 areas where they will have parks, including a 2-acre open space and a 3-acre open space that they intend to put playground equipment in the areas.

Hicks asked if the traffic study will include the City and the County in its totality. Rolland stated that they are doing a traffic study on another project and that is the same situation, and the County and the City have to review the traffic study so it would include both entities.

Beutler indicated that the staff feels development complies with the Comprehensive Plan and Subdivision Ordinance and would still recommend approval.

Applicant: Mark Radford, 825 W 66 S, Idaho Falls, Idaho. Radford clarified that he wasn't trying to imply the idea that the fuel tax pays for maintenance, but he did suggest that fuel tax does not pay for building of new roads. Radford stated that if property taxes and other taxes truly did pay for new roads, then why in the world hasn't Ammon and Iona used the taxes to build new roads, because taxes doesn't pay for new roads. Radford stated that if the developers were required through impact fees, or requirements through the County to build roads including nice 4 lane arterial roads. Radford is asking the City to put the arterial roads done before the plat is approved. Radford stated that it is important to not get a traffic study from just Eagle Rock Engineering. Radford stated that they did a good job on 5th South, but look at the turn out lane, you cannot see as you come up the hill. Radford stated that the traffic study that was done, that this body required was not accurate as they are still having safety issues. Radford stated that the developers are in such a hurry to make quick buck, they neglect the very safety, and they just want to get this put together. Radford stated that the 3 acre and 2-acre parks that Rolland talked about have not been shown, and major subdivisions need to be taken step by step. Radford stated that this neighborhood has the opportunity to impact the community in an adverse way or a good progressive way, but it is up to the Commission and City Council to try to figure it out. Radford submitted that the Commission require a second traffic study done from a 30,000 viewpoint, 10–15-year viewpoint or even a short term view point, and Radford is prepared to do that if need be.

Dixon stated that Radford's request for reconsideration needs to be the focus of the points being made at this time.

Radford stated that there should be a second traffic study done, to prove that the decisions being made by the developer and Council are accurate. Radford stated that safety is a big concern to everyone in the area, and it is important for the City of Idaho Falls as it grows. Radford stated that as the City grows it needs to be grown responsibly and in a wise and prudent way. Radford stated that this subdivision could get them on the correct trajectory to develop in a responsible way and do it across the City. Radford wants the City to recognize the safety concerns that have been addressed. Radford asked the Commission to (a) get a secondary traffic study; and (b) get the roads built before the preliminary plat because without that, there is no assurance that these roads will ever be built. Radford wants everyone to benefit from the new development through proper prudent planning. Radford felt like the first meeting was rushed and that is why he appealed the decision. Radford asked the Commission to reconsider their decision and put things into play like he has discussed.

Dixon closed the public hearing.

Dixon indicated that the options are to reaffirm the decision; reverse the decision; or modify the decision.

Kirkham wants the Commission to understand what they are considering tonight versus what they might consider in a normal decision. Kirkham stated that the focus tonight is much more narrow. Kirkham stated that today they have a request to reconsider their decision. Kirkham stated that the applicant when they make the request for reconsideration has to specify the basis on which the applicant believes the Commission should make the reconsideration, and that is what the Commission's focus should be on. Kirkham stated that they should look at what the applicant has raised as the basis for what the prior decision was incorrect. Kirkham stated that this is not another bite at the apple, but rather reviewing the specific concerns raised by the applicant and determining whether that concern merits reconsidering the decision.

Dixon stated that as he looks at the application to reconsider that was submitted, there are two main points, that the preliminary plat is not consistent with the City's Comprehensive Plan and the Commission failed to adequately explain in its reasoned statement how the preliminary plat complies with the express approval standards, and it calls out specifically, call for higher density residential housing; fails to include a fiscal impact analysis; and does not provide for sufficient neighborhood parks.

Hicks stated that based on the criteria of the specific request, within that criteria, Hicks is going to apply the safety considerations, including traffic, and his position is that he would request that there be a total City/County traffic study completed prior to the initiation of this project, and this Traffic study should be reviewed by whoever needs to see it, and presented to the applicable parties, including this Commission, at which time further action could be initiated and taken.

Dixon stated that when they first visited this item Hicks voted yes, and now he is stating that his opinion is that additional conditions should be placed on approval, or prior to approval. Hicks stated that on the initial hearing he did question the ability of the road to handle the traffic, and registered that as a thought, but this time he is carrying it further to say that without the traffic study, he would be opposed to the project.

Morrison understands that there are two things going on, with the applicant wanting the Commission to reconsider their decision, and all of the comments have been from the public have been against the whole thing all together. Dixon stated that the applicant is asking for that as well and is not questioning the specific things in there about adjusting the R1 lots, or some of the other things, but it is more general. Morrison stands with his decision last time. Morrison stated that he lives in Shamrock Park and that is the way you should build a subdivision and this subdivision is too crammed full of houses, with not enough parks and things, and the traffic going in and out is terrible, and he is not in favor of the entire project.

Black stated that the Commission looked at the requirements, they looked at the questions that were raised in the original hearing, and Black stands by that hearing. Black stated that the traffic study is undergoing now, and she will wait to hear from the experts on that traffic study, as she is not an expert on roads and right of ways, and turns, etc. Black will leave that information to the experts. Black stated that the City attorney addressed dealing with the Comprehensive Plan versus the zoning. Black stands by her initial approval of the preliminary plat.

Cantu stated that he wasn't present at the original meeting and he isn't sure he can even vote, based on missing that meeting.

Denney is satisfied that there is going to be a traffic study done or is in progress. Denney stated that one traffic study is enough. Denney stated that she feels that the subdivision meets the standards and requirements and that it was clearly explained about the Comprehensive Plan versus the zoning. Denne is still in favor of the original decision.

Romankiw agrees with Black and Denney and stands by what was done at the original meeting. Romankiw feels that that this preliminary plat complies with the subdivision ordinance. Romankiw does understand the neighbors concerns and this Commissions review is limited.

Dixon reminded the Commissioners that the current pathway based on what has been approved is that before the final plat the expectation is to have the traffic study completed and then the final plat would be a business item, and not a public hearing, that would be a recommendation to the Mayor and City Council, and they would make the approval.

Hicks moved that the Commission would rescind the prior decision and revisit this item after a traffic study has been completed to include the parties applicable and a recommendation that the City include the County if possible and make a decision at that time.

Morrison called point of order and stated that this Commission cannot require the County to anything. Dixon agreed with Morrison's assertion. Morrison doesn't feel that including the County can be in the requirements. Hicks amended his motion to recommend that the City include the County.

Kirkham recommended that one of the things they will need is a reasoned statement of relevant criteria and standards for why the commission is changing their decision, so it would be helpful in the motion to point out the statutory basis for requiring the additional condition. Dixon reiterated that that the motion should identify the specific statute or basis for the reason why the Commission would be requiring the traffic study before revising the decision, as the decision might not be approval. Hicks stated that if he knew the specific ordinances and City regulations concerning that he would give them, but he doesn't know. Kirkham added that this is a different

sort of hearing than what the Commission would decide on a typical basis, as they are looking at specific issues that were raised by the applicant who is seeking a reconsideration of your decision, determining whether those issues that they address constitute a basis to reconsider your decision and then implementing those in some way. Kirkham stated that if they don't know the statutory basis for that, the applicant might not have provided one, or there isn't one. Kirkham stated that regardless the Commission is bound to follow the law and apply the law. Kirkham stated that if the Commission is going to create a condition before it will reconsider its decision, then they need to point out the basis or the authority the Commission has to require that condition. Kirkham offered the Commission time to review the law and they can put this off to decide at a later time, but one of the things that the Commission will need to do, if it modifies its decision tonight is to produce a relevant statement of criteria and standards for the basis of its decision in writing. Dixon stated that there was a point of order raised, and once the point of order is addressed, then they need to go back to whether there is a second for the motion or not.

Morrison agreed that this point of order was addressed.

Beutler re-read Hicks's motion. **Hicks moved to rescind the previous decision and revisit following a completion of a traffic study, with a recommendation that the traffic study be reviewed by the City and the County.**

The motion died for lack of second.

Black moved that the Commission deny the request for reconsideration of the Ivywood West Subdivision Preliminary Plat, Morrison seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, abstain; Denney, yes; Hicks, no; Morrison, yes; Romankiw, yes. The motion passed 4-1.

Kirkham indicated that they could utilize the previous Reasoned Statement of Relevant Criteria and Standards that is in their packet. Kirkham suggested focusing on the applicants written brief it focused on the incompatibility of the plat with the Comprehensive Plan, that it didn't meet the conditions proposed by the Comprehensive Plan, and the applicant and the public testimony tonight had various issues of traffic and raised issue of no bond to ensure that the entire length of 65th West is improved from Ammon to this location.

Dixon suggested adding to the current Reasoned Statement the following Criteria and Standards:

1. The issue of density is something that was decided by the zoning, rather than the Comprehensive Plan because the Zoning overrides the Comprehensive Plan.
2. That the item of traffic and road development was addressed by the development of 15th West as something that would be required as part of the development agreement, and the development of 65th South is outside of the Commissions control because it is controlled by the development from a regional perspective by the BMPO, and they have designated that street for development, and most of it is still in the County.
3. It has been pointed out by the developer that there are going to be 2 large water retention ponds that can be developed as parks and this is a common thing that is practiced throughout the City.

Dixon confirmed that the motion would be what they want staff to prepare and at the next meeting they would have to approve what Staff prepared. Kirkham agreed.

Black moved to instruct staff to prepare the Relevant Criteria and Standards as stated by Chairman Dixon, Morrison seconded the motion. Dixon called for roll call vote: Black, yes; Cantu, yes; Dixon, yes; Hicks, yes; Morrison, yes; Romankiw, yes. The motion passed unanimously.

Miscellaneous:

Comprehensive Plan Update. Beutler introduced Caitlyn Long as a new planner in the office. Beutler stated that they are in the last week of the open public survey and encouraged the Commissioners to go to ImagineIF.city and take the survey. Beutler stated that the consultant will be presenting those results and they can start analyzing them and creating policy statements for the new Comprehensive Plan. Beutler stated that they have been meeting with focus groups, including a developer group, utility providers, bike and pedestrian group, and next week they will meet with agricultural representatives, real estate professionals, and business owners regarding the Comprehensive Plan. Beutler stated that the surveys are going well, and they have over 600 responses and have been able to achieve statistical validity in every single neighborhood. Beutler reminded the Commissioners about the land use project that Brad introduced last meeting. Black asked when the land use project is due. Beutler stated that the May agenda should be light, so they are planning on doing work session items. Beutler encouraged the Commissioners to have the project completed by May. Beutler stated that there is a second meeting in April.

Next meeting April 20, 2021.

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

Respectfully Submitted

Beckie Thompson, Recorder