

REGULAR COUNCIL

March 19, 2018

Mayor Kling called the meeting to order at 6:30 p.m.

Clerk made note that Councilmembers Skaug, Haverfield, Levi, Hogaboam, Bruner, and Rodriguez were present.

**MOVED** by Bruner and **SECONDED** by Skaug to **approve the Consent Agenda as presented; Regular Council Minutes of March 5, 2018; and Special Council Meetings of January 10, 2018, January 31, 2018, February 5, 2018, February 20, 2018; Bicycle and Pedestrian Advisory Committee Minutes; Board of Appraisers Minutes; Airport Commission Minutes of December 11, 2017; Planning & Zoning Commission Minutes of February 27, 2018; Library Commission Minutes; IT Steering Committee Minutes; department reports, bills paid; The City Council dispenses with the three (3) reading rule of Idaho Code § 50-902 for all ordinances; final and preliminary plat approvals:** 1) Gateway Industrial Park Phase 1 in an IL (Light Industrial) zoning district at 1019 N 30<sup>th</sup> St. (6 industrial lots on 5.41 acres for 1.1 lot per gross acre – A parcel of land located in the SW ¼ of Section 13 T3N R2W BM), for Kent Brown, representing KNR Newby, LLC.; 2) Modena Subdivision at 17590 N Franklin Blvd. (A portion of the NW ¼ Section 2 T3N R2W BM located on the east side of N Franklin Blvd, ½ mile south of Ustick Rd – 32 Single Family Residential lots on 11.74 acres or 2.73 lots/gross acre) for 1099 LLC; 3) Red Hawk Ridge Subdivision No. 5 in an RS-6 (Single Family Residential – 6000 sq ft) zoning district on the north side of W Greenhurst Rd, west of Red Hawk Subdivision No. 4 (32 residential lots on 9.1-acres for 3.95 lots per gross acre – situated in the So 1/2 of Section 31 T3N R2W BM) for JUB Engineers representing M3 Companies, LLC; **Authorize Public Hearings:** 1) Comprehensive Plan Future Land Use Map Amendment from Light Industrial to High Density Residential, and Annexation and Zoning to RML (Limited Multiple-Family Residential) at 1010 Southside Blvd. (A 12.97-acre or 564,974 sq ft parcel of land being a portion of Lots 3 and 4 of Block 2 of Gateway Park in the NW ¼ of Section 36 T3N R2W BM) for Mason and Associates, representing Mark Sparrow; 2) Comprehensive Plan Future Land Use Map Amendment from Light Industrial and Business Park to Community Mixed Use for 76.78-acres, and Annexation and Zoning to BC (Community Business) for 10.72-acres and to RP (Residential Professional) for 66.07-acres, and Conditional Use Permit for a 106 unit Assisted Living Level II Facility with Memory Care on a 2.73-acre portion of the proposed BC zoned area. (A combined 76.78-acre portion of the SE ¼ of Section 5 T3N R2W BM at the northwest corner of the intersection of W Cherry Lane and Midland Blvd.) for Jeffrey H Bernson representing Derk Pardoe, CIF Enterprises, LLC; 3) Reconsideration of the Condition of Approval for Meadowcrest Subdivision at the Northeast Corner of Lake Lowell Ave. and So. Middleton Rd. for Hayden Homes Idaho LLC, Tim Mokwa Relating to the Limited Issue of Construction Access on South Lancaster Drive; **Authorize to Proceed with Bidding Process:** 1) Locust Lane Irrigation Production Well Project; **Authorization for execution of Contracts and Agreements:** 1) None; **Monthly Cash Report:** 1) Financial Report - January 31, 2018; 2) Bank Balances - February 2018; **Resolutions:** 1) Disposal of Waterworks Property; 2) Disposal of Police Vehicles; Correct Irrigation Assessments Pursuant to Idaho Code 50-1807; **License for 2017:** *Used Precious Metals* – **None License for 2018:** *Pawnbrokers* **None;** *Alcohol:* **The Woodshed Bar**, 817 East Karcher Road, on-premise beer and liquor; **Little Saigon Vietnamese**, 1305 2<sup>nd</sup> Street South Suite 100, on-premise beer and wine; **Holiday Inn Nampa**, 16245 Merchant Way, on-premise beer, wine and liquor; **Petes**, 11 12<sup>th</sup> Avenue South, on-premise beer and wine; **Tiny's Lounge**, 10 12<sup>th</sup> Avenue South, on-premise beer,

Regular Council  
March 19, 2018

wine and liquor; **Miscellaneous Items:** 1) None. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. Mayor Kling declared the

**MOTION CARRIED**

Mayor Kling asked if there was anyone wishing to speak on any agenda item: No-one was wishing to speak on an agenda item.

Mayor Kling asked if there was anyone wishing to speak on any item that was not on the agenda: No-one was wishing to talk on a non-agenda item.

**Item #13** - Public Works Director Michael Fuss presented a staff report to update the council on current projects as follows:

**SRF Loan Update** – We met last week with DEQ regarding the state revolving fund loan and it is out for public comment as of Friday. Nampa is number three on the list for authorized loan after the public comment. It is in the intended use plan. In that they have set aside \$37 million since it is a year to year thing for Nampa’s SRF loan. They believe that they can obligate on a continuing basis for extended projects and there are some comments built within the intended use plan to demonstrate that Nampa should be continued to be funded. The biggest news on that is the interest that they are proposing is 1.68% for the entire loan. So that is a substantial amount of saving over our original plan. I have the team working on the numbers to show the savings.

**Public Educational Outreach Update for Wastewater Phase II Upgrades Bond Election** – Staff has been diligently working on public education communication for the May 15, 2018, wastewater bond election. The following informational tools have, or will be, put in place to inform and/or gather feedback from Nampa utility customers:

- Utility bill inserts have been designed and printed (see Exhibit A)
  - Distribution began on March 14 via customer utility billing
- Messaging on City of Nampa Nextdoor and Facebook pages
- Sewer bond page created for City website ([cityofnampa.us/sewerbond](http://cityofnampa.us/sewerbond))
- Dedicated phone number (208-565-5132) set up
  - Customers will hear a recorded message
    - Message is in English and Spanish
  - Customers can also leave messages or questions for staff
- Dedicated email ([sewerbond@cityofnampa.us](mailto:sewerbond@cityofnampa.us)) in-place
  - Customers will receive an automated, general informational message with a hyperlink to the sewer bond page on the City website
  - A link to a Frequently Asked Questions (FAQ) fact sheet will also be available
- One-hour public open house meetings have been scheduled in Nampa City Hall Council Chambers as follows:

Regular Council  
March 19, 2018

- Wednesday, March 21, at 6:00 p.m.
- Wednesday, April 18, at 6:00 p.m.
- Tuesday, April 24, at 10:00 a.m.
- Tuesday, May 1, at 10:00 a.m.
- Tuesday, May 8, at 12:00 p.m.
- Monday, May 14, at 4:00 p.m.
- Presentations
  - Given on Thursday, March 8, to Nampa Kiwanis
  - Scheduled for Tuesday, March 27, to Rotary Club of Nampa
  - All Public Works Department Divisions will receive the presentation by March 21
- Internal staff communication standard operating procedures (SOP) drafted

**Weekend and Night Work for 2<sup>nd</sup> and 3<sup>rd</sup> Streets South Downtown Improvements Project-**

- Construction is scheduled to begin in late March, or early April, for the 2<sup>nd</sup> and 3<sup>rd</sup> Streets South Downtown Improvement Project, between 12<sup>th</sup> and 16<sup>th</sup> Avenues South (see Exhibit B)
- The project will add the following improvements to downtown Nampa:
  - New asphalt surfacing and pedestrian ramps
  - Streetscape amenities (intersections only) that will include brick paver sidewalks, decorative streets lights, benches, planters and garbage receptacles
  - Water, pressure irrigation, stormwater and electrical utility upgrades
- From the planning stages of the project staff focused on communicating with stakeholders to gather input, assist in the design process, and minimize impacts to businesses during construction
- The contractor requested to complete some of the demolition work at night to reduce impacts to local businesses
- Nampa City Code Section 6-7-3 allows for work to occur between the hours of 7:00 a.m. and 11:00 p.m.
- In 2014, Council authorized the City Engineer to act as an agent to issue night time work permissions (see Exhibit C)
- The City Engineer has authorized night work for the 2<sup>nd</sup> and 3<sup>rd</sup> Streets South Downtown Improvement Project as it will reduce traffic and safety impacts

**Item #14 – Tabled from last meeting** – Mayor Kling presented the request for **deferral of Paving for Todd Ferrera DBA Dicks Kar Korral located at 3712 Garrity Blvd.**

Regular Council  
March 19, 2018

Planning and Zoning Assistant Director Robert Hobbs presented the following staff report: the property is within a BC zone and it has previously been a car dealership and in conjunction with a change of ownership. The new applicant asked if we would allow them to park vehicles where the prior owner had parked vehicles which was across the entire property apparently. Nampa City Code specifies that the parking of vehicles is only to be done on paved surfaces, asphalt or concrete except in special circumstances.

They are asking for a deferral so they could have time to recover monies to put into reserves to pave additional land to have additional display area. They indicated that the previous owner has displayed vehicles off of the asphalt.

In looking back in our records we found years ago when a prior dealership was on site that we had specifically indicated on the dealership license form the goes back to the state that vehicles are to only be displayed on paved surfaces. If they parked off the paved surface then they were not keeping with that trust.

Mayor Kling asked questions of staff on a time frame.

Councilmembers asked questions and made comments on this request.

**MOVED** by Bruner and **SECONDED** by Haverfield to deny the request for 7 years but accept a one-year deferral period for **Todd Ferrera DBA Dicks Kar Korral** located at **3712 Garrity Blvd.** The Mayor asked for a roll call vote with Councilmembers Skaug, Levi, Hogaboam, Haverfeild, Bruner voting **YES**. Councilmember Rodriguez voted **NO**. The Mayor declared the  
**MOTION CARRIED**

**Item #15** – 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS 7 for Modena Subdivision at 17590 N. Franklin Blvd. for 1099 LLC (PH was 01-02-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #16** – 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS-6 at 34 N Middleton Rd. for Irma Lisa Aguilar-Reyes (PH was 01-16-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #17** – 1<sup>st</sup> Reading of Ordinance for Vacation of the Northerly 2 ft of the Southerly 5 ft Easement for Bryan Wright, Representing Peter Kasper (PH was 02-05-2018) **Postponed Due to Lack of Supporting Documentation**

Regular Council  
March 19, 2018

**Item #18** – 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RP at 1505 Southside Blvd. for Todd Lakey representing Shawn, Kara, Tim & Ralene Overall (PH was 02-05-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #19** – 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to BC for a Storage Facility at 2105 N. Middleton Rd. for Hatch Design Architecture, Jeff Hatch representing Don Vandegrift (PH was 02-20-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #20** - 1<sup>st</sup> Reading of Ordinance for Annexation and Zoning to RS 6 for Meadowcrest Subdivision at the Northeast Corner of Lake Lowell Ave. and So. Middleton Rd. for Hayden Homes Idaho LLC, Tim Mokwa (PH was 02-20-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #21** - 1<sup>st</sup> Reading of Ordinance for Vacation of Right-Of-Way for Barbara St, Adjacent Jacksons Food Stores at 612 Northside Blvd, on the East Side of Northside Blvd, South of I-84, within a BC and IL/RS zoning districts. The Applicants Own Multiple Parcels on Both Sides of the Existing Barbara St Right-Of-Way, and Propose Demolishing the Existing Store and Fuel Canopies, Constructing a New Store and Fuel Canopies Located Further away from Northside Blvd, as Well as Street Improvements in the Existing Unopened Ann Street Right-Of-Way, for Aspen Engineers, Representing Jacksons Food Stores, Inc (PH Was 3-5-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #22** - 1st reading of Ordinance for Vacation of Easement located on a Portion of 16828 N Marketplace Blvd, being Lot 4, Bk 1 of Treasure Valley Crossing Subdivision, within a BC Zoning District, West of N Midland Blvd and on the North Side of N Marketplace Blvd. The Easement to be Vacated is Located on the South Side of the Sewer Easement, Adjacent the North Property line, and Comprises a 26.07 ft x 20 ft x 25.99 ft x 20 ft area, for Agree Realty, Representing LK Nampa II, LLC (PH Was 3-5-2018) **Postponed Due to Lack of Supporting Documentation**

**Item #23** - Mayor Kling presented the request to **award bid** and **authorize** the **Mayor** to **sign** contract for the **Sidewalk Local Improvement District (LID) 164** project with **Hess Construction, Inc.** in the amount of **\$250,927.72**.

Michael Fuss presented a staff report explaining that the LID 164 will provide a funding mechanism for property owners within the identified boundaries, as shown on exhibit "A" to construct or reconstruct curb, gutter, sidewalks, pedestrian ramps and drive approaches as an improvement to their property.

The 100 participating properties are identified in exhibit "A."

Regular Council  
March 19, 2018

The Ordinance creating the LID was approved by Council at the February 5, 2018 meeting.

The City received two bids for the project. The apparent low bidder is Hess Construction, Inc. Engineering Division has reviewed the bids and recommends Council award to Hess Construction, Inc. in the amount of \$250,927.72

The bid tabulation is attached as exhibit "B"

**MOVED** by Skaug and **SECONDED** by Haverfield to **award bid** and **authorize Mayor** to **sign contract** for the **Sidewalk Local Improvement District (LID) 164** project with Hess Construction, Inc. in the amount of \$250,927.72. The Mayor asked for a roll call vote with Councilmembers Hogaboam, Bruner, Haverfield, Skaug voting **YES**. Councilmembers Levi, Rodriguez voting **NO**. The Mayor declared the

MOTION CARRIED

**Item #24** - Mayor Kling presented the request to **award bid** and **authorize the Mayor** to **sign contract** for the FY18 **storm drain repairs Zone D – South Elder St.** project with **CWE, LLC** in the amount of **\$137,978.00**.

Michael Fuss presented a staff report explaining that as part of the FY17 Public Works Asset Management Program, Engineering, in partnership with Environmental Compliance, identified critical storm water repair projects in Asset Management Zone D (see exhibit "A").

The project was selected based on historical flooding data from a 2013 storm event, safety concerns and proactive maintenance strategies.

The project is located along South Elder Street between E. Dewey Avenue and E. Clark Avenue. Improvements include storm water conveyance pipelines, catch basins, sand and grease traps, a seepage bed and valley gutters.

The City received four (4) bids for the project with the low bid from CWE, for \$137,978.00 (see exhibit "B", Bid Tabulation)

Cougar Construction submitted an official protest to the bid based on the low bidder did not complete the following:

- Date, list public works license number or expiration date on bid form.
- Did not submit required document for the "Naming of Subcontractors, Suppliers and Other Entities Form".
- Included additional pages, 00500-5 and 00500-6, from the "Standard Form of Agreement Between Owner and Contractor on the Basis of a Stipulated Price".

Regular Council  
March 19, 2018

The City consulted with legal and recommend proceeding with the low bid as the criteria was satisfied and submission of the “Naming of Subcontractors, Suppliers and Other Entities Form” is an informality.

- The public works license number was included page 00500-6, it is active, and the bid was submitted prior to opening
- The project doesn’t require a licensed plumbing, electrical, or HVAC sub-contractor
- Instruction to bidders document, Article 19.01, Award of Contract, indicates that the Owner reserves the right to waive all informalities not involving price, time, or changes in the work.

Estimated project costs:

Design & Construction Management services	\$ 13,500.00
<u>Construction</u>	<u>\$ 137,978.00</u>
<i>Total</i>	<i>\$ 151,478.00</i>

The FY18 Streets/Stormwater budget is \$280,000. The remaining \$128,522.00 will be spent on additional stormwater projects in Zone D. Remaining locations have been prioritized and will be designed and constructed until budget is exhausted.

Engineering reviewed the bid and recommends awarding bid to CWE, LLC for the FY18 Storm Drain Repairs Zone D – South Elder St. project.

**MOVED** by Haverfield and **SECONDED** by Bruner to **award bid** and **authorize** the **Mayor** to **sign contract** for the **FY18 Storm Drain Repairs Zone D** – South Elder St. project with **CWE, LLC** in the amount of **\$137,978.00**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #25** - Mayor Kling presented the request to **authorize** the **Mayor** to **sign** the **encroachment agreement** with **Van, LLC**.

Michael Fuss presented a staff report explaining that the Van, LLC is currently in design process for renovations to the Van Engelen Apartments at the intersection of 1<sup>st</sup> Street South and 13<sup>th</sup> Avenue South.

As part of the renovations the developer needs to bring the entrance into the building up to current ADA standards.

To make their entrance ADA compliant they need to add a ramp in the right of way of 1<sup>st</sup> Street South. To this end they have requested an encroachment agreement to place the ramp in the right of way (exhibit 1).

Regular Council  
March 19, 2018

Engineering has reviewed the drawings attached as exhibit “2” and the proposed ramp can be installed while still providing the required widths for the adjacent sidewalk.

Engineering does not oppose granting the requested encroachment agreement.



**MOVED** by Bruner and **SECONDED** by Hogaboam to **authorize** the **Mayor** to **sign** the **Encroachment Agreement** with **Van, LLC**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
**MOTION CARRIED**

**Item #26** - Mayor Kling presented the request to **authorize** the **Mayor** and **Public Works Director** to **sign task order** with **T-O Engineers, Inc. to Provide Design, Survey and Engineer of Record Services for the Aerial Sewer Replacements FY18 Project** in the amount of **\$58,416.00** (T&M N.T.E.).

Michael Fuss presented a staff report explaining that each year as part of the City’s Asset Management program the Wastewater Division identifies sanitary sewer lines and infrastructure that need rehabilitation or replacement.



Regular Council  
March 19, 2018

In 2017 (FY17) the City had to perform an emergency repair on an aerial sewer crossing at Broadmore Ave to stop sewage discharge into Indian Creek. The emergency repair highlighted the need for the City to be more proactive in replacing failing aerial sewer crossings.

For FY18 the Wastewater Division identified six (6) aerial sanitary sewer crossings in need of replacement (Exhibit A).

The aerial crossings will be designed in FY18 and construction in FY19 to coincide with the irrigation off-season. Constructing the project during the irrigation offseason will reduce the need for bypass pumping and improve constructability. Four (4) of the six (6) aerial crossings do not have an existing easement on one (1) or both sides. The City will need to acquire temporary and/or permanent easements to construct the project.

T-O Engineers, Inc. was selected by interview to design the project and assist with easement acquisition, bidding and construction. T-O has completed the concept report for the project to assist the City in budgeting and construction planning.

The Aerial Sewer Replacements FY18 project has an approved FY18 Wastewater Division budget of \$480,000.

Concept Report	\$ 24,538
Design & Easement Preparation	\$ 58,416
<i>Construction Estimate</i>	<i>\$ 360,000</i>
<i>Inspection Estimate (10%)</i>	<i>\$ 36,000</i>
<b>Total</b>	<b>\$ 478,954</b>

T-O Engineers, Inc. has provided a Scope of Work and Labor Estimate to provide design, survey and engineer of record services for \$58,416 as an amendment to Task Order PW80018016 (Exhibit B).

**MOVED** by Haverfield and **SECONDED** by Hogaboam to **authorize** the **Mayor** and **Public Works Director** to **sign Task Order** with **T-O Engineers, Inc.** to provide design, survey and engineer of record services for the Aerial Sewer Replacements FY18 project in the amount of **\$58,416** (T&M N.T.E.). The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

Regular Council  
March 19, 2018

**Item #27** - Mayor Kling presented the request to authorize the **Mayor and Public Works Director** to sign a Contract with **Cougar Excavation, LLC** to **Construct the Zone D Sewer Rehab FY18** (ITD Manhole Replacements) Project.

Michael Fuss presented a staff report explaining that each year as part of the City's Asset Management program the Wastewater Division identifies sanitary sewer lines and infrastructure that need rehabilitation or replacement.

For FY18 the Wastewater Division identified 5,667 feet (1.10 miles) of sanitary sewer line in need of rehabilitation and 47 manholes to be repaired or replaced (Exhibit A).

Two (2) of the manholes (MH) identified for the FY18 project are within ITD's right-of-way (ROW) on I-84 B and SH45 (Exhibit A). Both ITD road segments are scheduled for construction in FY18. I-84B will be rebuilt and SH45 will receive a micro-seal surface treatment.

The City needs to replace the MH's in ITD's ROW in advance of the two (2) projects.

The City solicited semi-formal bids for the project in accordance with I.C. § 67-2805(2) and three (3) contractors responded with the following bids:

- 1) Cougar Excavation, LLC \$ 92,990.00
- 2) Titan Technologies, Inc declined to bid (workload)
- 3) L2 Excavation, LLC declined to bid both MH (workload)
  - a. L2 submitted a quote to repair the MH on 2<sup>nd</sup> St S for \$44,851.60

Both project sites pose significant construction challenges in addition to the ITD permit requirements of lean concrete backfill and night work. Traffic control, sewage bypass pumping and lean concrete backfill represent 47% of Cougar Excavation's bid.

The Zone D Sewer Rehab project has an approved FY18 Wastewater Division budget of \$946,000.

Project costs are summarized below:

Design & Construction Inspection	\$ 175,470
Construction Bid (ITD MH Replacements)	\$ 92,990
<i>Inspection Estimate (ITD MH Replacements)</i>	<i>\$ 10,000</i>
<i>Construction Estimate (Main Project)</i>	<i>\$ 611,697</i>
<b>Total</b>	<b>\$ 890,157</b>

Regular Council  
March 19, 2018

Consultant JUB Engineers and Engineering Division recommends awarding the bid to Cougar Excavation, LLC.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **authorize** the **Mayor** and **Public Works Director** to **sign a contract** with **Cougar Excavation, LLC** to construct the **Zone D Sewer Rehab FY18** (ITD Manhole Replacements) project. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
MOTION CARRIED

**Item #28** - Mayor Kling presented the request to **authorize Public Works Director** to sign **deferral agreement** for **Blake Wolf** at **1017 E. Iowa Ave.**

Michael Fuss presented a staff report explaining that the property owner, Blake Wolf, at 1017 Iowa Avenue has requested a deferral of the requirement for installing curb, gutter and sidewalk, see attached exhibit "1".

The property was recently rezoned from RA to RD to facilitate installing multifamily units on the property.

East Iowa is a dead-end roadway and was recently widened to 24' wide in this area by the Morrison Subdivision located north east of the subject property. The drainage on this section of East Iowa is handled with borrow ditches.

The subject property is the third development along this section of East Iowa Avenue. The previous two developments were granted deferrals to the frontage improvement requirement:

- The four plex's to the east of the property were built in 2003
- The Morrison Subdivision, 3 duplexes, was built in 2017

A deferral for construction of the required improvements may be granted in accordance with Section 9-3-1 of the Nampa City Code.

The deferral agreement if approved requires the property owner to install the deferred improvements when the City requires it.

The Engineering Division has reviewed the location and does not oppose the granting of the requested deferral. When the property to the north develops we recommend calling in the deferrals granted on Iowa.

Councilmembers asked questions and made comments.

Mayor Kling asked questions and made comments.

Regular Council  
March 19, 2018

**MOVED** by Bruner and **SECONDED** by Skaug to **authorize Public Works Director to sign Deferral Agreement for Blake Wolf at 1017 E. Iowa Avenue.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
MOTION CARRIED

**Item #36a** - Mayor Kling opened a **public hearing for modification of zoning development agreement between** Needs Kotch LLC and the City of Nampa recorded 8/15/2007 as Inst. No. 2007056433 Amending Bella Commons Phase 1 Changing Lot 4, Block 1 from a Commercial Lot to a Multiple-Family Residential lot to Match the Existing Neighborhood, Zoning Map Amendment from BN-PUD to RMH-PUD for Summit Development Representing Conquest Properties LLC **AND** Variance to Section 10-1-18 of the City of Nampa Zoning Ordinance: Two Way Traffic (d), 90° - That Requires a 24 ft Back-up Area for Vehicles, for Property Located in Bella Commons Subdivision, Lot 4, Bk 1, Phase 1, Within a Proposed RMH Zoning District, for Summit Development, Representing Conquest Properties, LLC.

Steve White, 3710 East Man-o-War Lane presented the request.

Councilmembers asked questions and made comments.

Planning and Zoning Assistant Director Robert Hobbs presented the following staff report explaining that the request is for a Rezone of land (“Zoning Map Amendment”) from BN-PUD (Neighborhood Business with a planned unit development overlay) to RMH-PUD (High-Density Residential with a planned unit development overlay); and, Modification of a zoning-based development agreement [land use contract] between Needs Kotch LLC and the City of Nampa recorded 8/15/2007 as Instrument No. 2007056433 (Ord. no. 3725) by amending Bella Commons phase 1 by changing Lot 4, Block 1 from a commercial lot to a multiple-family residential lot (to match the existing neighborhood); pertaining to A .43-acre lot [no. 4 of Block 1] in Bella Commons Subdivision (phase 1) situated in NW ¼ of Section 17, T3N, R2W, BM, Canyon County, Nampa (hereinafter the “Property”)... for Conquest Properties LLC as applicant with Summit Development.

**History:** The Bella Commons [mixed use] PUD (hereinafter, variously, the “Project”, or “Development” or “Bella Commons PUD” or similar) was originally entitled in 2007. Subsequent development of the project languished following the world economic recession of 2008. Very limited development and change of ownership were the only events of renown that the Project experienced until recently when interest and wherewithal to finish developing the Property has surfaced.

The entitlement requests associated with this report and purposed to simply convert the corner lot formerly slated for light, neighborhood friendly commercial development into, more rationally, multi-unit (i.e., four-plex) residential apartments.

Regular Council  
March 19, 2018

The Nampa City Planning and Zoning Commission, during their regularly scheduled public hearing of February 13, 2018, after receiving testimony and reviewing the application package made the subject of this report, voted to recommend to the City Council that they approve the requested Rezone and Development Agreement Modification. The Commission subsequently voted to approve Planned Unit Development Permit request those entitlements.

**Annexation/(Re)Zoning Conclusions of Law**

10-2-3 (C) Annexations and/or Rezones/Zoning assignments must be reasonably necessary, in the interest of the public, further promote the purposes of zoning, and be in agreement with the adopted Comprehensive Plan for the neighborhood.

Annexation/(Re)Zoning Findings of Fact

**(PERTAINING TO THE .43-ACRES OF LAND REQUESTED TO BE REZONED):**

**Zoning: Regarding Applicant's Zoning Map Amendment Request (to RMH-PUD) Staff finds:**

**1. Current Jurisdiction/Status:**

That the Property is currently within Nampa City and is either owned or optioned by the Applicant; and,

**2. Current and Surrounding Zoning:**

That the Property is presently zoned BN-PUD (Neighborhood Business with a planned unit development overlay); City RMH-PUD zoned land currently abuts the Property on its northern and its western sides, said RMH land covering lots in the Bella Commons development; and, that City RA zoning abuts the Property on its eastern and southern sides, said RA zoning covering right-of-way and parcels of land-- see attached Vicinity Map; and,

**3. Immediately Surrounding Land Uses:**

Generally (viewed radially from the Property -- working outward and clockwise):

Northwest: four-plexes, open land and residential housing;

North: four-plexes, open land and residential housing;

Northeast: a mobile home park;

East: a mobile home park;

Southeast: open land and residential housing;

South: open land and residential housing (and an undeveloped right-of-way);

Southwest: open land and residential housing;  
West: four-plexes, open land and residential housing;

4. **Proposed Zoning:**

That the RMH district is purposed to provide “for high density, multiple-family housing. It is intended to be situated in close proximity to major commerce areas, campus location, and major thoroughfare intersections and around the downtown districts.”

(The BN zoning district within which the Property made the subject of this report currently lies is noted as being, “intended to create, preserve and enhance areas of retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters or integrated shopping centers located within residential neighborhoods.”); and,

6. **Reasonable:**

That it may be variously argued that consideration for [re]zoning the Property is reasonable given that: a) the City has received an application to rezone the Property by amending its official zoning map by the Property owner or an Applicant having a valid, legal interest in the same; and, b) rezoning is a legally recognized legislative act long sanctioned under American administrative law; and, c) within the City of Nampa, zoning assignment is a long standing (and law sanctioned) practice; and, d) that the Applicant intends to develop all or a portion of the Property; and, e) City utility services are available to the Property (see aerial photo with utility lines displayed); and, f) emergency services are available to the Property; and, g) the Property, as afore-stated, abuts RMH Zoning; and, h) land uses in the nearby area actually [in the same development] suggest that RMH zoning would be a better fit for the Property versus the BN Zone; and, i) that high-density housing lies to the east of the Property across Cassia Street in the form of a mobile home park; and,

7. **Public Interest:**

That Nampa has determined that it is in the public interest to provide varying residential housing opportunities for its citizens; and,

8. **Promotion of Zoning Purpose(s):**

That among the general (and Nampa endorsed) purposes of zoning is to promote orderly, systematic development and patterns thereof which preserve and/or enhance public health, safety and welfare. Included in our zoning regulations, therefore, are standards governing [multi]residential development which appertain to allowable land uses, building setbacks, building aesthetics, provision of parking and service drives, property landscaping, etc. Provided in conjunction with the application package made the subject of this report is a concept site development plan showing two four-plexes on Lot 4, together with accessory

parking stalls. Should the requested entitlement package be approved, the four-plexes will be evaluated for compliance with zoning code; and,

**9. Comprehensive Plan:**

The Property is positioned in a “Residential Mixed Use” “setting” per the Future Land Use Map associated with the City’s adopted Comprehensive Plan. The “Residential Mixed Use” setting is deemed as providing support for the RMH Zone as its patron uses are primarily residential [with some allowance for very light retail and offices]. The properties to the north and west of the Property are in the same setting; an area of General Commercial lies immediately east of the Property and Medium Density Residential lies immediately south and off to the north of the Property (see attached Comprehensive Plan Future Land Use Map snippet exhibit); and,

**10. Services:**

That utility and emergency services are, or can be made, available to the Property; and,

**11. Further, that:**

- a. Agency/City department comments have been received regarding this matter. Such correspondence as received from agencies or the citizenry regarding this application package [received by noon December 06, 2017] is hereafter attached to this report.
  1. Nampa City Engineering has no objection(s) concerning the entitlement application package made the subject of this report and has provided (a) requirement(s) in the event the package is approved [note that Engineering has expressed concern regarding a forthcoming parking space Variance Application request that bears on the Property but that is not the subject of this report]; and,
  2. The Nampa Highway District has no objection(s) concerning the entitlement application package made the subject of this report; and,
  3. The Idaho Transportation Department has no objection(s) concerning the entitlement application package made the subject of this report; and,
  4. The Building Department has no objection(s) concerning the entitlement package made the subject of this report; and,
  5. The Idaho Transportation Department has no objection(s) concerning the Rezone application; and,

Regular Council  
March 19, 2018

6. Staff has [still] not received commentary from any surrounding property owners or neighbors either supporting or opposing this request by the time this report went to print [Wed. March 14].
  - b. The Planning and Zoning Commission has recommended that the requested Rezone and Development Agreement Modification requests be approved, and, have approved the associated Planned Unit Development Modification (which approval is necessarily made contingent on the Rezone and Development Agreement Modifications being approved.

**Note:** The preceding general statements are offered as possible [preliminary] findings and are not intended to be all inclusive or inarguable. They are simply provided to the Commission and Council in case the requested entitlement is considered for approval. In the event the of an opposite course, then negative findings may be adopted by the City Council.

**In summary, the Property may be rezoned to RMH-PUD, but nothing compels the Council to do so as it acts in its quasi-judicial capacity to decide on the proper land use zone/district to assign to the Property. Given the findings noted above, however, RMH-PUD zoning is certainly an “entertainable” zone and recommended for imposition...**

### **Development Agreement Modification**

Development Agreements are land use contracts [and treated as contracts by Idaho’s Supreme Court versus a form of zoning related entitlement] authorized in state code in the Local Land Use Planning Act section (Title 67) thereof.

Criteria to guide the Council regarding the requested Development Agreement Modification(s) are absent from state statute or City ordinance. Thus, approving -- or not – that aspect of the application package becomes a purely subjective matter/decision on the part of the City in reaction to the Development Agreement contract modification application associated with this report.

Attached hereto is a copy of Ordinance no. 3725 -- the [original] Development Agreement bears on the Property. Amendment of the Agreement is required to introduce a revised Exhibit C site “conceptual plan” into the same as well as modify conditions of approval in Exhibit D and Recitals in the introductory of the Agreement as necessary.

### **Staff Commentary**

The Bella Commons mixed-use [PUD] project was approved a decade ago. The portion of the Project made the subject of this report was proposed for future, small commercial development. Having a portion of the Development abutting a street intersection/corner as part of the PUD



Regular Council  
March 19, 2018

sounded “fine in theory” when Bella Commons was originally approved, the location and limited land area afforded to the commercial situs, coupled with a national economic development market downturn, has left that commercial corner undeveloped to date; neither of interest as well to developers presently.

Converting the commercial corner to/for use as additional four-plex land to be blended with the other four-plexes being built on the eastern end of the Project is a more logical development idea and more likely to be executed on site. Staff recommends approval of the request.

**Recommended Condition(s) of Approval**

N/A at the time of this report’s publication (this connotes that modification of the development agreement associated with the Bella Commons PUD project be accomplished).

Councilmembers asked questions.

No one appeared in favor of or in opposition to the request.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

**MOVED** by Rodriguez and **SECONDED** by Levi to **modification of zoning development agreement between** Needs Kotch LLC and the City of Nampa recorded 8/15/2007 as Inst. No. 2007056433 Amending Bella Commons Phase 1 Changing Lot 4, Block 1 from a Commercial Lot to a Multiple-Family Residential lot to Match the Existing Neighborhood, Zoning Map Amendment from BN-PUD to RMH-PUD for Summit Development Representing Conquest Properties LLC with staff conditions and authorize the City attorney to draw the appropriate ordinance. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #36b** - Mayor Kling opened a **public hearing** for **variance** to **Section 10-1-18** of the City of Nampa Zoning Ordinance: **Two Way Traffic** (d), 90° - That Requires a 24 ft Back-up Area for Vehicles, for Property Located in Bella Commons Subdivision, Lot 4, Bk 1, Phase 1, Within a Proposed RMH Zoning District, for Summit Development, Representing Conquest Properties, LLC.

Steve White, 3710 East Man-O-War presented the request

Robert Hobbs presented the following staff report explaining that the request was for a variance to the minimum required vehicular backup/maneuvering distance required for 90-degree oriented parking stalls (N.C.C. § 10-1-18.Figure 1) and to the BN-PUD required side [interior] yard setback (15' against residential zoning) adjacent to the backup area not normally usable for vehicle maneuvering (N.C.C. §§ 10-14-5.D & 10-22-3.B)... the property is located at a certain .433-acre lot of land (County Parcel/Acct. # R 3141010300) located in Bella Commons Subdivision [a Planned Unit Development] in a BN-PUD zone (proposed for rezoning to RMH-PUD) at the northeast corner of the intersection of W. Flamingo Avenue and N. Cassia Street – hereinafter the “Property” (see attached Vicinity Map)...

### **Applicable Regulations**

#### **10-24-1: [VARIANCE] PURPOSE:**

The council is empowered to grant variances in order to prevent or to lessen practical development difficulties, unique site circumstances and unnecessary physical, geographical hardships inconsistent with the objectives of zoning as would result from a literal interpretation and enforcement of certain of the bulk or quantifiable regulations prescribed by this title.

A variance shall not be considered a right or special privilege but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity, and b) the variance is not in conflict with the public interest. Hardships must result from special site characteristics relating to the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions, or from population densities, street locations or traffic conditions or other unique circumstances.

Variances are not intended to allow something that others do not have a permitted right to do. The purpose of a variance is to provide fair treatment and to see that individuals are not penalized because of site characteristics beyond their control. (Ord. 2140; and. Ord. 2978)

#### **10-24-2: ACTIONS:**

- A. Granting Of Variance Permit: The council may grant a variance permit with respect to requirements for fences and walls, site, area, width, frontage, depth, coverage, front yard, rear yard, side yards, outdoor living area, height of structures, distances between structures or landscaped areas as the variance was applied for or in modified form if, on the basis of application, investigation and evidence submitted, the council concludes the following:
1. Literal interpretation and enforcement of the regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance.

2. There are extraordinary site characteristics applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.
3. Literal interpretation and enforcement of the regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
4. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.
5. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

### **Staff Findings and Discussion**

#### **I. Variance Introduction:**

Variations are traditionally offered zoning tools used as remedies to seek jurisdictional waivers or reductions of quantifiable, measurable development code requirements (e.g., setbacks, property dimensions, height standards, min. or maximum quantities or sizes, etc.) with which compliance in a given situation could not be attained due to site constraints (such as unusual topography) inherent to a property, rather than being the result of an applicant's own action(s)/development desires. Normally, economic considerations or "self-imposed hardships" or predicaments are not qualifying grounds to support a Variance application or its approval. As noted in the planning text The Practice of Local Government Planning (ICMA, 1988, 2<sup>nd</sup> ed.),

"Many requests for variances are for minor bulk variances in existing neighborhoods: for example, expansions of patios or carports one or two feet into designated side-yard setbacks. On such matters the zoning board becomes a sort of neighborhood arbitration board, dealing with physical hardships. Although these hardships are rarely great, this should be weighed against the extent of the public sector's stake in the somewhat arbitrary determination that a 10-foot- side yard is superior to a 9-foot one."

In Nampa, in order to justify a Variance Permit request, an applicant is tasked with arguing successfully to the City's Council that there is some aspect of the Property that physically, topographically or based on code requirements puts them at a disadvantage in trying to accomplish what they wish in comparison to like properties, especially in the surrounding area.

If the Council believes that there is no real topographical hardship associated with a Variance application (e.g., a river, a highway or a mountain in the way, etc.), then left to the applicant is the

opportunity to argue that there is a “unique site circumstance” sufficient to justify their request. In times past, Variance Permits have been issued on a case by case basis where a unique situation could be determined to exist that pertained to a Variance application. Thus, historical matters, errors by the City or County, demonstrated lack of knowledge concerning a code by an applicant or their contractor, common sense “solutioning”, development precedent and a variety of other mitigating factors have been evaluated in conjunction with these kinds of applications for relief from quantifiable, measurable standards adopted as law via Nampa’s zoning ordinance.

Council is at liberty to approve or deny a Variance. And, their vote should not necessarily be construed as setting precedent -- for nothing binds them to vote the same way twice other than their own perceptions and those of others that they may be concerned with. Still, consistency is a desirable goal when dealing with case by case Variance requests. As a Variance decision is a “quasi-judicial” matter, any vote to approve or deny should be accompanied by a reasoned statement listing the rationale for the decision made.

## **II. This Application:**

As Variance Permits have been used to provide opportunity for an applicant to seek relief from a dimensional or quantifiable, metric standard, this request was received to ask the Council to consider approving for a reduction in the required backup/maneuvering space and adjacent setback by association for a parking bank totaling 11 spaces on a building lot in the process of being rezoned. The intended build-out of the Property is to comprise two (2) four-plexes. The parking spaces are proposed to be oriented on an east/west axis abutting the western side of the proposed four-plexes (see attached site plan exhibit).

As this is a Variance request, it is the obligation of the Applicant to present such facts and persuasive arguments as to convince the Council that there exists some form of hardship or other unique site circumstance to justify issuance of the requested permit. The review criteria the Council is to use in assessing the application are those in bold font listed at the beginning of this report under the heading of “Applicable Regulations”, “Actions” 1-5. Those criteria serve as the “Conclusions of Law” to be associated with this matter.

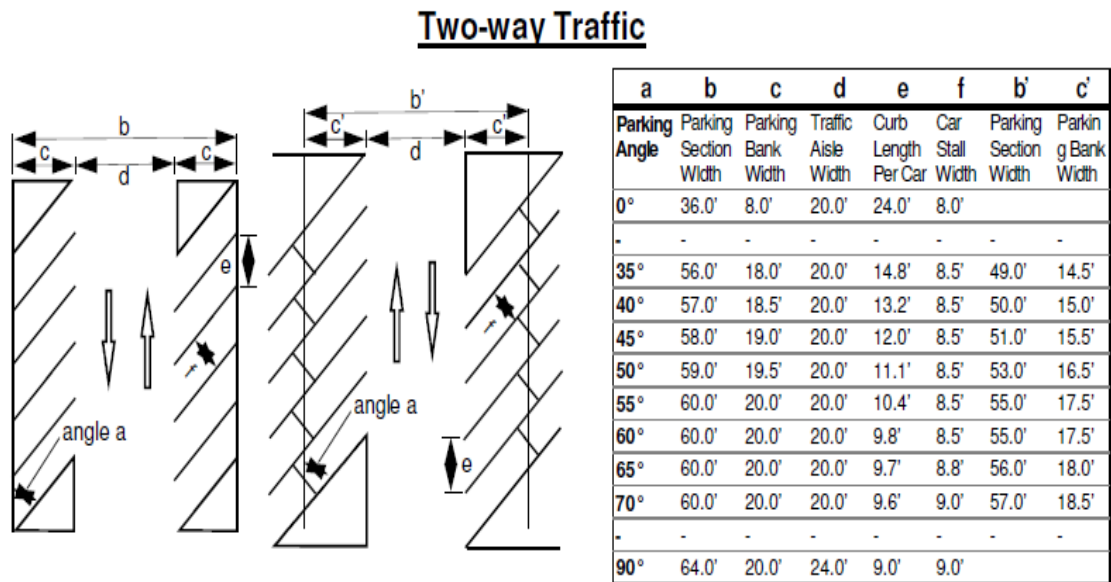
## **III. General, Possible Findings:**

1. The Property (legal description within City case file VAR 041-18) made the subject of this Variance request is located within the incorporated limits of the City of Nampa; and,
2. The Applicant has a controlling interest in the Property and is authorized to represent the same or allow another party to represent the same in this matter; and,

3. As authorized and mandated according to Idaho statute, the City has adopted a comprehensive zoning ordinance that applies to all properties within the City’s incorporated limits, and (by limited form and fashion) to areas within its negotiated Impact Area; and,

4. The City’s zoning ordinance requires that vehicular parking spaces oriented 90 degrees to a service drive (which doubles as the service drive/maneuvering area for vehicles in the parking spaces off the drive) comply with all relevant zoning code requirements appertaining thereto (including conformance to any requisite dimension controls in order to qualify such to be “code compliant”); and,

5. That the City’s adopted zoning ordinance [§ 10-1-18 Figure 1] denotes the minimum back-up space required behind a parking space set at 90 degrees to a service drive is required to be twenty-four feet (24’) I depth/length:



6. The Applicant seeks a Variance Permit from the City of Nampa in order to be allowed to have a service drive twenty-feet (20’) in width in lieu of twenty-four feet (24’) behind the parking stalls proposed to be emplaced in conjunction with construction of two (2) four-plex apartment buildings on the same lot as the service drive (i.e., the Property); and,

7. The Applicant has submitted to the City a complete Variance Permit Application together with the requisite fee, and the City has received the application; and,

8. The Variance Application is being processed in conjunction with procedures compliant with the Local Land Use Planning Act, and Nampa Zoning Ordinance standards appertaining to such an application type; and,
9. Variances, as a rule, are not to be issued simply for economic reasons or convenience; they “shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity”; and,
10. A statement has not been provided that attempts to justify the Variance request as some type of topographical or other physical site hardship or “unique site circumstance” that restricts Property development or “buildout” or use of land as allowed to other City properties or as granted already to City properties developed and/or used in similar fashion to the business plan(s) of the Applicant; and,
11. Adjacent property owners have not provided comment regarding the application; and,
12. The City’s Engineering Division has commented on the Variance proposal; and,
13. The City’s Building Department has expressed that they do not have any conditions relevant to the request if it is approved; and,
14. The Nampa Highway District has indicated that they have no comment regarding the application; and,
15. The Idaho Transportation Department has provided comments regarding the proposed application; and,
16. No direct physical impact on the general public by this request is foreseen by virtue of this request were it to be approved; expected impact would be center, rather, on the question any approval raises as to its propriety, possibly including a perceived setting of precedence for similar setback code deviations given compliance to setback standards demonstrated by other persons/parties in the City; and,
17. Attached to this report is all of the information Staff had by the time this report was ready to go to print (12 noon, March 12).

**IV. Analysis/Opinion:**

Regular Council  
March 19, 2018

In Nampa, as pertaining to land use Variance Permit requests, a burden rests upon an applicant to argue persuasively to the City's Council that one or more conditions related to the property they represent interfere(s) with the applicant's use of their land in manner and form commensurate with that enjoyed, most particularly, by their neighbors or other properties in a similar situation and zoning district as that applicant's land. Each land use Variance Application is reviewed on a case by case basis and the merits of the matter are weighed in the public venue. Public testimony has been received and the opinions of City departments or outside agencies submitted to the Council for their consideration.

With respect to the matter made the subject of this report, Applicant, per their narrative argues for their Variance request, essentially as follows:

- A) That the Applicant owns the Property; and,
- B) That the Applicant desires to have, effectually, a reduced parking space backup area allowance -- co-mingled with a reduced interior (side) yard setback by Variance Permit....

In the absence of written arguments made by the Applicant, Staff observes as follows:

- A) That twenty feet (20') of space is proposed behind the parking spaces to the western side yard property line of the Property; and,
- B) That the building footprint plan associated with the Property's build-out does not afford additional space to provide the necessary back up room by moving to the east the four-plex buildings proposed for construction on the Property; and,
- C) That the Applicant does not appear to have an ownership interest in/of the lot to the immediate west of the Property but may be able to obtain an encroachment easement to the Property should the City wish to allow the back-up area needed for the parking bank in question to intrude into that other lot (regardless of whether the Variance is approved or not); however, such an agreement may also be denied the Applicant; and,
- D) That Staff has not received expressions of opposition to the Variance request from City Departments/Divisions, outside agencies, or the public -- save concern has been expressed by City Engineering that the proposed back-up space/area may be deficient for some vehicles; and,
- E) That Variances are most commonly associated with topographical or other unique site circumstances related to a property vs. being issued for convenience or economic gain/savings; and,

Regular Council  
March 19, 2018

- F) That, in the majority, other properties throughout the City, when newly developed have routinely complied with the zoning code's parking space and service drive design controls save, perhaps, in limited instances; and,
- G) That some jurisdictions allow for a percentage of parking spaces to be compact, commonly 7.5' wide by 15' long when allowed and when laid down at a 90-degree angle. Such a metric, if applied in this case, would provide twenty-five feet (25') of back up area....

**Recommended Condition(s) of Approval**

Should the Council vote to approve this Variance package request, then Staff recommends that they/you consider imposing the following Condition(s) of Approval against the same:

Generally:

1. Applicant(s) shall comply with all applicable requirements [including obtaining a Building Permit] and any requisite sub-permits) as may be imposed by City agencies appropriately involved in the review of this request (e.g., Nampa Fire [inspection], Building, Planning and Zoning and Engineering Departments, etc.) as the Variance(s) [Permit] approval(s) do/does not, and shall not, have the affect of abrogating requirements from those agencies or City divisions/departments...

Councilmembers asked questions and made comments.

No one appeared in favor of or in opposition to the request.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

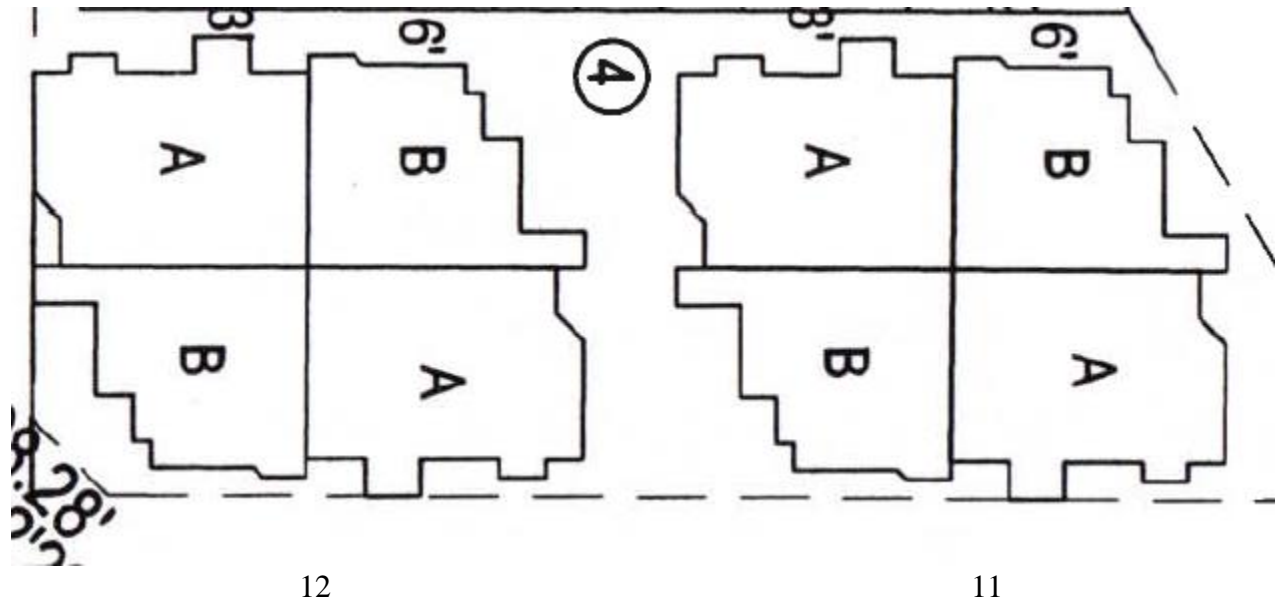
Councilmembers asked questions and made comments.

City Attorney Aaron Seable explained that if the applicant was in agreement to the changes that a conclusion could be made tonight.

**MOVED** by Haverfield and **SECONDED** by Bruner to approve the variance to allow the developer to work directly with the Planning and Zoning Department to come up with a means to adjusting the lot line itself or the things that we discussed tonight, as long as we can come up with a 24 foot wide lane and a 18 foot deep parking stall and a 6 foot pathway along the west side of the units that would effectively meet concerns.



Applicant Steve White asked for clarity on the motion.



I don't think that building #11 needs any modifications because it has plenty of room for backup with area being open into the parking lot as that is the entrance and exit. So would the modification just address building #12 or would the modification address building #11 and #12?

Councilmember Haverfield just said it would be just #12, that it is satisfactory to me, in fact as I was looking at the footprint, that storage could actually be brought down to this corner and effectively get the width you need on your sidewalk (correct) the only thing that I am still concerned about is making sure that we have 24 feet behind these parking stalls, if you could pick up two feet by reducing those parking stalls down from 20 to 18, shift that around that would give you the six foot for there, we are still talking about two feet on the property line having to be adjusted.

Steve White said that I like your idea of moving the storage to the corner, that would make up three feet and if we shortened the stalls up to 18 feet that would give us 25 feet of backup space instead of 24.

**CLARIFIED MOTION BY HAVERFUIELD AND BRUNER** - The one in the lower right hand corner is building #12 – allow the developer to work with the Planning and Zoning department to come up with the means of creating a 24 foot wide driveway to the west of that building, by adjusting either the parking stalls, the building footprint itself or the property line, but to allow him to work directly with Planning and Zoning Commission to come up with a means of satisfying that

Regular Council  
March 19, 2018

requirement and building #11 would be fine as it is configured. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
**MOTION CARRIED**

**Item #37** - Mayor Kling opened a **public hearing** for **variance** to Section 10-8-6 of the City of Nampa Zoning Ordinance Requiring a 50 ft lot Width, for Property Located at **315 10<sup>th</sup> Ave N** within an **RS-6 zoning district**, for Sylvestre Castaneda, Representing Pedro Arredondo, Jr.

Sylvester Castaneda, 119 7<sup>TH</sup> Avenue South #2 presented the request.

Norm Holm presented the following staff report explaining that the request is for a variance of required lot width (50' to 45') for two lots at 315 10<sup>th</sup> Avenue North for Sylvestre Castaneda representing Pedro Arredondo Jr.

### **General Information**

**Status of Applicant:** Owner; **Existing Zoning:** RS 6 (Single Family Residential 6,000 sq. ft.); **Location:** 315 10<sup>th</sup> Ave. No.; **Size of Property:** A .289 acre or 12,600 sq. ft. parcel (All of lot 3 and the northeast 40' of lot 4, block 106, Griffith & Kings Addition in the NE 1/4 of Section 22, T3N, R2W, BM); **Surrounding Land Use and Zoning:** North- Single Family Residential, RS 6 (Single Family Residential – 6,000 sq. ft.), South- Single Family Residential, RS 6 (Single Family Residential – 6,000 sq. ft.), East- Single Family Residential, RS 6 (Single Family Residential – 6,000 sq. ft.), West- Single Family Residential, RS 6 (Single Family Residential – 6,000 sq. ft.); **Comprehensive Plan Designation:** Medium Density Residential; **Zoning & Planning History:** The lot was likely originally occupied by a single-family dwelling and removed sometime in the past. The property is now vacant. The Planning & Zoning Commission held a public hearing at their March 13<sup>th</sup> meeting and approved a CUP for the applicant to construct 2 duplex dwellings on the proposed lots. The approval was granted subject to City Council approval of this lot width variance request.

### **Applicable Regulations:**

#### **10-24-1: [Variance] Purpose:**

The City Council is empowered to grant variances to prevent or to lessen practical development difficulties, unique site circumstances and unnecessary physical, geographical hardships inconsistent with the objectives of zoning as would result from a literal interpretation and enforcement of certain bulk or quantifiable regulations prescribed by zoning ordinance.

A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics

applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity, and b) the variance is not in conflict with the public interest. Hardships must result from special site characteristics relating to the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions, or from population densities, street locations or traffic conditions or other unique circumstances.

Variances are not intended to allow something that others do not have a permitted right to do. The purpose of a variance is to provide fair treatment and to see that individuals are not penalized because of site characteristics beyond their control. (Ord. 2140; amd. Ord. 2978)

**10-24-2: Actions:**

A. Granting of Variance Permit: The council may grant a variance permit with respect to requirements for fences and walls, site, area, width, frontage, depth, coverage, front yard, rear yard, side yards, outdoor living area, height of structures, distances between structures or landscaped areas as the variance was applied for or in modified form if, on the basis of application, investigation and evidence submitted, the council concludes the following:

1. Literal interpretation and enforcement of the regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance.
2. There are extraordinary site characteristics applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.
3. Literal interpretation and enforcement of the regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
4. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.
5. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

**10-8-6: PROPERTY AREA, WIDTH, DEPTH, FRONTAGE AND SETBACK REQUIREMENTS:**

In order for a property to be eligible for development the following requirements shall be adhered to:

RS Zoning District/Zone	Maximum Number Dwelling Units Per Acre	Required Property Area <sup>1</sup>	Required Property Width	Required Mean Property Depth	Required Street Frontage <sup>2</sup>
RS 6	7.26	6,000	50 feet	60 feet	22 feet

**Special Information**

**Transportation:** The property is accessed from the adjacent alley and from 10<sup>th</sup> Ave. No.

**Aesthetics/Landscaping:** Duplex use in this older neighborhood would be aesthetically attractive and landscaped in compatibility with the quality of existing housing in the area.

**Citizen Input:** At the time of the preparation of this staff report no letters or personal expressions of opposition to or support for the granting of the variances have been received from any neighboring property owners or residents.

**Narrative/Comments**

To justify a variance request, an applicant must argue successfully to the Council that there are aspects of their property that physically, topographically, or, otherwise based on code requirements, puts them at a disadvantage in trying to accomplish what they wish (e.g., develop their land) in comparison to like properties. And where a site is clear of obstructions, easily or already flat graded (i.e., not adversely, topographically affected by a river, a highway or a mountain in the way, etc.), and, is of minimal dimensions per zoning code to be “buildable”, then it is difficult to argue that a hardship is present that is not brought on by the applicant’s proposed design.

If the City Council believes that there is no real topographical hardship associated with a variance application, then the applicant must argue that there is a “unique site circumstance” sufficient to justify their request. In the past variances have been issued on a case by case basis where a unique situation could be determined to exist.

The City Council must determine if this request qualifies as a unique site circumstance providing the required justification for approval. The City Council is at liberty to either approve or deny. Either decision should not be construed as setting precedent, but consistency in the community/neighborhood and between applications is a desirable goal when dealing with case by case variance proposals.

Regular Council  
March 19, 2018

*The proposed variance(s), if approved, would sanction the Planning & Zoning Commission conditional use permit approval to allow the applicant to construct two duplexes on the property with each duplex occupying their own 45' x 140' lot. The two lots would be deficient the required 50' minimum required lot width by 5' allowing each of the lots to maintain a 45' width. Each lot would exceed the required minimum lot area of for the RS 6 zone of 6,000 sq. ft. by 300 sq. ft. each.*

*Staff views the variance request as reasonable based upon the unique site circumstance of having a vacant lot with sufficient area but slightly insufficient width.*

### **Recommended Conditions of Approval**

Should the City Council vote to approve the requested lot width variance Planning and Engineering staff require the following conditions of approval:

- 1) With redevelopment of the site, that a shared joint use drive access/approach be constructed.
- 2) With redevelopment of the site, that the existing sidewalk be reconstructed, in its present location, to remove any/all portions that have deteriorated.
- 3) Parcel lies within a FEMA defined flood zone. At time of building permit application owner will be required to satisfy FEMA requirements to build within a flood zone.

No one appeared in favor of or in opposition to the request.

**MOVED** by Haverfield and **SECONDED** by Skaug to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

**MOVED** by Bruner and **SECONDED** by Hogaboam to **approve the variance** to Section 10-8-6 of the City of Nampa Zoning Ordinance Requiring a 50 ft lot Width, for Property Located at **315 10<sup>th</sup> Ave N** within an **RS-6 zoning district**, for Sylvestre Castaneda, Representing Pedro Arredondo, Jr. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

**Item #38** - Mayor Kling opened a **public hearing** for **annexation and zoning** to **IL** for **Self Storage** at **908 W. Karcher Rd.** for **Civil Site Works** representing **Charles and Carmela Ham**.

Kean McHaddad, 2101 South Venture Drive presented the request.

Regular Council  
March 19, 2018

Norm Holm presented the following staff report explaining that the request was for annexation and zoning to IL (Light Industrial) for self-storage at 908 West Karcher Road for Civil Site Works (Corinne Graham) representing Charles and Carmela Ham.

#### General Information

**Planning & Zoning Commission Recommendation:** Approval, subject to specified conditions; **Zoning & Planning History:** The property has been used for Industrial uses in the past.; **Status of Applicant:** Owner representative; **Annexation Location:** 908 W. Karcher Rd.; **Total Size:** 4.807 acres or 209,393 sq. ft.; **Existing Zoning:** M-2 (County Heavy Industrial); **Proposed Zoning:** IL (Light Industrial); **Comprehensive Plan Designation:** Light Industrial; **Applicable Regulations:** For a property to be annexed it must be contiguous with the city limits or be enclaved by other properties so annexed. This parcel is enclaved and is bordered by city limits on the south and northwest.; **Existing Uses:** Appears to be a trucking facility of some kind. The land itself is mostly vacant.; **Applicant Reason for Annexation and Zoning:** For consideration of a Self-Storage facility.

#### Special Information

**Public Utilities:** 12” water line in W. Karcher Rd., No available sewer lines., No available irrigation lines.; **Public Services:** Police and fire already service city incorporated areas surrounding the location.; **Physical Site Characteristics:** Existing under developed industrial property.; **Transportation:** Access to the property is from both Keim Lane and W. Karcher Rd.; **Correspondence:** No correspondence has been received from any area property owners, residents or business owners regarding opposition to or support for the requested annexation and zoning to IL.

#### Staff Findings and Discussion

From a land use standpoint, the location is shown on the comprehensive plan “future land use map” as being compatible with the zoning that has been requested. If the City Council votes to accept the Planning & Zoning Commission recommendation for approval, the following findings are suggested:

- 1) The requested annexation area is enclaved and adjoins the city limits on the south and northwest.
- 2) The area can reasonably be assumed to be available for the orderly development of the city with the city limits having grown into the area and the adjacent lands have been annexed, zoned, and/or developed for industrial purposes.

Regular Council  
March 19, 2018

- 3) The proposed zoning conforms with the city's comprehensive plan future land use map for Light Industrial land use and is reasonably compatible with existing and proposed land uses in the area.
- 4) The applicant desires annexation for consideration of a self-storage facility.

### **Recommended Conditions of Approval**

If the City Council votes to accept the Planning & Zoning Commission recommendation for approval, they request the following conditions of approval as recommended by City Engineering:

#### Access and Right-of-Way

- 1) Access shall be determined in accordance with the City of Nampa's Access Management Policy.
- 2) Right-of-way dedication required.
  - a. Karcher Road: Functional classification for this section of W. Karcher Road is a local road. State of Idaho (ITD) has purchased right-of-way needed for the Karcher over-pass project, and frontage improvements.
  - b. Keim Lane: Functional classification is a local road. Right-of-way dedication required will be thirty-feet for half of a future sixty-foot right-of-way.

#### General:

- 1) At time of development or re-development of the site, full frontage improvements are required and will include, but not be limited to-
  - a. Curb, gutter, and sidewalk
  - b. Pavement widening and striping.
  - c. Landscaping as required
  - d. Storm drainage, on-site retention whether public or private.
- 2) In addition, at time of development, it may be required that all necessary and required public utilities are extended, at owner's expense, including but not limited to the domestic water main and service(s), and pressure irrigation main and service(s) to and through the project in accordance with current City policy. For any public mains, thorough site will require dedication of easements to City over and around the utility in accordance with City's policy, at widths determined with review and approval of development plans.
  - a. Domestic Water: Existing 12-inch main in right-of-way of W. Karcher Road. Main extension required to parcel's north boundary in Keim lane.
  - b. Pressure Irrigation: Not currently available.
  - c. Sewer: Not currently available.

No one appeared in favor of or in opposition to the request.

Regular Council  
March 19, 2018

**MOVED** by Haverfield and **SECONDED** by Skaug to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

**MOVED** by Skaug and **SECONDED** by Haverfield to **approve the annexation and zoning to IL for Self Storage at 908 W. Karcher Rd. for Civil Site Works representing Charles and Carmela Ham with the staff conditions as recommended** and authorize the City Attorney to draw up the appropriate Ordinance. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #39** - Mayor Kling opened a **public hearing for Development Agreement Annexation and Zoning to RS 6** for 13.96 acres, and **BC** for 3.59 acres at **0 Amity Ave.** - Parcel# R3179901000 for **Patrick Colwell, T-O Engineers** Representing Aberdeen Springs Wind LLC, Fred Cornforth.

Todd Lakey presented the request.

Councilmembers asked the applicant questions.

Norm Holm presented the following staff report explaining that the request was for annexation and zoning to RS-6 for 13.96 acres, and to BC for 3.59 acres at 0 Amity Avenue – parcel #R3179901000 for Patrick Colwell, T-O Engineers representing Aberdeen Springs Wind LLC, Fred Cornforth.

### General Information

**Planning & Zoning Commission Recommendation:** Members of the Commission expressed concern about pedestrian safety in the neighborhood and a need for having Kings Rd. included in the traffic study for the development. Commissioners also stated concerns about the volume of traffic in the area with lack of sidewalks and the need for improvements on E. Amity Ave. as well as Kings Rd. They concluded that it comes down to safety issues and concern over placing citizens in harmsway and therefore voted to recommend to the City Council denial of the revised RS 6 and BC annexation and zoning application.

Approximately twenty area residents and/or property owners testified in opposition to the annexation and zoning proposal largely on the basis of traffic and pedestrian safety concerns.

**Zoning & Planning History:** At the November 28, 2017 Planning & Zoning Commission meeting the Commission voted to recommend to the Nampa City Council that the application for Annexation and Zoning to RS 6 (Single Family Residential - 6,000 sq. ft.) for 7.197 acres, RD



Regular Council  
March 19, 2018

(Two-Family Residential) for 6.762 acres, and BC (Community Business) for 3.586 acres be denied.

The applicant subsequently conducted a neighborhood meeting the week of December 10<sup>th</sup>, 2017 in which they worked with the neighbors to revise the application into a layout and landuse that worked for the neighbors and the owner. The number of lots adajent the Buckskin Drive homes were reduced, and the layout revised to exclude the RD Zoning resulting in a new layout that incorporated the original BC zoned area and a revised RS 6 zoned area that includes the area previously proposed for RD zoning.

The applicant requested that the matter go forward to the City Council without bringing the revised concept back to the Commission for a new recommendation. Staff reviewed the matter with the City Attorney and together it was agreed to allow the application with the revised zoning to proceed to City Council without a approval recommendation from the Commission.

The revised application excluded the RD zoning resulting in a new concept that incorporated the original BC zoned area and a revised RS 6 zoned area to include the area previously proposed for RD zoning.

Confusion existed from the City mailout for the City Council hearing because the zoning description on the exhibit map did not agree with the revised zoning plan stated within the written legal notice. The area residents were confused and not clear on what zoning was being proposed. As a result the City Council concluded to remand the revised application back to the Planning & Zoning Commission for further public hearing and a recommendation back to the City Council for either an approval or denial of the revised RS 6 and BC annexation and zoning application and revised conceptual subdivision layout.

Following the testimony given by the neighborhood at the February 13, 2018 Planning and Zoning Commission meeting members of the Commission expressed concern about pedestrian safety in the neighborhood and a need for having Kings Rd. included in the traffic study for the development. Commissioners also stated concerns about the volume of traffic in the area with lack of sidewalks and the need for improvements on E. Amity Ave. as well as Kings Rd. They concluded that it comes down to safety issues and concern over placing citizens in harmsway and therefore voted to recommend to the City Council denial of the revised RS 6 and BC annexation and zoning application.

**Annexation Location:** 0 East Amity Ave. – Parcel # R3179901000 (Tax 13298, a 17.54-acre parcel in the East 1/2 of the SW 1/4, Section 25, T3N, R2W, BM); **Total Size:** 17.54 acres; **Existing Zoning:** Canyon County – AG (Agricultural); **Proposed Zoning:** Nampa – RS 6 (Single Family Residential - 6,000 sq. ft.) for 13.96 acres, and BC (Community Business) for 3.59 acres.

Regular Council  
March 19, 2018

**Comprehensive Plan Designation:** The parcel straddles the boundary between Medium Density Residential and General Commercial where S. Queens Dr. intersects Mihan Lane, comprising approximately the southerly 1/5<sup>th</sup> of the property.

**Applicable Regulations:** For a property to be annexed it must be contiguous with city limits or be enclaved by other properties so annexed. This property is part of a 3-parcel, 28.59-acre enclaved area which adjoins the annexed city lands on the west, north, and east, and the E. Amity Ave. right-of-way on the south.

**Existing Uses:** Vacant land available for development.

**Applicant Reason for Annexation and Zoning:** “Annexation into the City of Nampa. Owner is examining options to either develop the property himself or sell the property to another developer.”

### **Special Information**

**Public Utilities:** 12” water main in E. Amity Ave., 10” water main in Mihan Lane - 8” sewer mains stubbed to the west side of the property in E. Sherman Ave. and S. Queens Dr - 8” irrigation main along the entire length of the west side of the property; **Public Services:** Police and fire already service city incorporated areas surrounding the location; **Physical Site Characteristics:** Existing vacant and under developed property.

**Transportation:** Access to the property is from both E. Amity Ave. and Mihan Lane. The applicant recently provided the attached traffic impact study on E. Amity Ave. The Executive Summary states: *In summary, it is our opinion that if Amity Road is restriped to have a center left turn lane in the proximity of the project, there will be sufficient capacity to handle the addition of site traffic.*

**Correspondence:** At the date of this staff report no direct correspondence has been received from any area property owners, residents or business owners regarding opposition to or support for the annexation and zoning proposal again before the City Council.

Residential land owners to the west within King’s Road Estates as well as to the east within Western Country Estates opposed the prior development proposals that included RD zoning. Approximately twenty area residents and/or property owners attended the February 13<sup>th</sup> Planning & Zoning Commission hearing testifying in opposition to the revised zoning proposal for RS 6 (Single Family Residential - 6,000 sq. ft.) for 13.96 acres, and BC (Community Business) for 3.59 acres largely on the basis of traffic and pedestrian safety concerns.

### **Staff Findings and Discussion**

Regular Council  
March 19, 2018

From a land use standpoint, the location is shown on the comprehensive plan “future land use map” as being compatible with the requested BC, and RS 6 zoning proposals. If the City Council determines to approve the revised concept and zoning proposal now before them the following findings are suggested:

- 1) The applicant desires annexation and zoning to: 1) either develop the property himself, or 2) sell the property to another developer.
- 2) The land is part of a 3-parcel, 28.59-acre enclaved area which adjoins city annexed land on the west, north, and east, and the E. Amity Ave. right-of-way on the south.
- 3) The area can reasonably be assumed to be available for the orderly development of the city with the city limits having grown into the area and the surrounding and adjacent properties having been annexed, zoned, and partially developed.
- 4) The subject parcel straddles the boundary between Medium Density Residential and General Commercial where S. Queens Dr. intersects Mihan Lane, comprising approximately the southerly 1/5<sup>th</sup> of the property.
- 5) The proposed BC (Community Business) zoning conforms with the city’s comprehensive plan future land use map for General Commercial land use. The proposed RS 6 (Single Family Residential – 6,000 sq. ft.) zoning conforms with the city’s comprehensive plan future land use map for Medium Density Residential land use.
- 6) Section 10-2-4 allows an annexation/zoning application to be processed with the execution of a development agreement. Through such agreements a property owner or developer may make written commitments concerning the use or development of a subject parcel in exchange for the change of zoning requested. Commitments made under such agreements are in addition to the regulations provided for in the zoning district by ordinance and are established to assure compatibility of the resulting land uses with the surrounding area.

### **Recommended Conditions of Approval**

If the City Council votes to approve the revised Annexation and Zoning application with elimination of the RD zoned area, an increase in the RS 6 zoned area, and a continuation of the original BC zoned area, staff recommends approval subject to the conditions recommended by City Engineering and any other conditions the City Council may feel necessary to protect the interests of neighboring property owners be placed in a development agreement, including the following:

Regular Council  
March 19, 2018

- 1) The Owner/Developer shall prepare the Preliminary and Final Subdivision Plats for “Aberdeen Springs” in substantial compliance with the project Conceptual Layout as depicted in Exhibit “C”.
- 2) In accordance with Nampa’s Bicycle and Pedestrian Master Plan and Nampa City Code 10-27-6(H) a pathway shall be required along the North Nampa Lateral along the norther boundary of the property. The pathway shall be connected to the existing pathway at Kings Road Park.
- 3) At the time of development, it shall be required that all necessary and required public utilities are extended, at owner’s expense, including but not limited to the public sewer main and service(s), domestic water main and service(s), and pressure irrigation main and service(s) to and through the project in accordance with current City policy. For any public mains, thorough site will require dedication of either easements to City over and around the utility in accordance with City’s policy, at widths determined with review and approval of development plans. Or, said utilities shall be placed within public rights-of-way if property is subdivided and platted.
  - Sewer: Sewer trunk/main is stubbed to the subject property at two locations. Intersection of So. Queens Drive and Mihan Lane, and the east end of E. Sherman Avenue. Upgrades to the Queens sewage lift station may be required depending on development type and number of units being served.
  - Domestic Water: Mains are stubbed to the subject property at two locations. Intersection of So. Queens Drive and Mihan Lane, and the east end of E. Sherman Avenue, with a 12” main in Amity along the entire Amity frontage.
  - Pressure Irrigation: Mains are stubbed to the subject property at two locations. Intersection of So. Queens Drive and Mihan Lane, and the east end of E. Sherman Avenue, with an 8” main running along the entire westerly border of the property. Parcel required to be annexed into the Nampa Municipal Irrigation System at time of development.
- 4) Access shall be from Mihan Lane and E. Sherman Avenue.
- 5) A stub street, if required, shall be extended to the property to the east at a location approved by the City of Nampa Engineering Division.
- 6) E. Amity Avenue shall be restriped to have a center left turn lane in the proximity of the project as proposed in the January 31, 2018 Thompson Engineers Traffic Study.
- 7) Right-of-way dedication required.
  - Amity Avenue: Functional classification is an arterial requiring a total 100-foot right-of-way. With this annexation owner will be required to dedicate an additional 10-feet of right-of-way as necessary from end of sidewalk at Mihan to the parcel’s east border.
- 8) At the time of development full frontage improvements are required and will include, but not be limited to-
  - Curb and Gutter: Reconstruction and realignment may be necessary dependent on size and type of development and/or any requirements identified in a TIS if required.
  - Sidewalk

Regular Council  
March 19, 2018

- Pavement widening and striping. May be necessary dependent on size and type of development and/or any requirements identified in a TIS if required.
- Landscaping as required
- Storm drainage, on-site retention whether public or private.

Questions were asked about the traffic around the proposed subdivision.

Councilmembers asked questions of staff.

Pat Colwell, T. O. Engineers addressed questions and made comments.

Those appearing in opposition to the request were: Laurel Pickerin, 3318 East Sherman; L. D. Moffis, 3318 East Sherman; Marsha Kinsela, 3424 Parkridge Drive; Patty Weber, not in attendance; Howard King, did not speak but opposed the request; Curtis Mason, was not in attendance; Melvin Weber, did not speak but opposed to the request; Chris Hensley, 305 Buckskin Drive; Wendy Warrick, 403 Buckskin; Greg West, 313 Buckskin Drive; Brenda Valverde, 657 South Queens; Paula Whisner, did not speak but was opposed to the request; Ronald Whisner, 3309 Fryer Tuck Court; Rebekah Bent, 3614 East Amity Avenue; Deborah Kinghorn, 3614 East Amity Avenue; John Kinghorn, did not speak but was opposed to the request; Jason Bent, did not speak but was opposed to request; Vicki Coburn, 609 South Grays Lane; Randy Coburn, 609 South Grays Lane.

No one appeared in favor of the request.

Todd Lakey presented a rebuttal to questions and comments made.

Councilmember asked questions and made comments.

Mayor Kling asked questions and made comments.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **close the public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

Councilmembers asked questions and made comments.

Mayor Kling made comments.

**MOVED** by Haverfield and **SECONDED** by Bruner to **grant the annexation and zoning to RS-6 for the entire parcel which is 17.55 acres there about eliminating the BC zone and with the**

Regular Council  
March 19, 2018

**recommended conditions of approval as solicited by staff, the only thing that I would change or have then address is item 8 – landscaping as required, and adequate buffer would need to be provided along Amity on the back side of those lots, sufficient width 20 to 30 feet whatever you think is necessary** and authorize the City Attorney to draw the appropriate ordinance. The Mayor asked for a roll call vote with Councilmembers Skaug, Hogaboam, Bruner, Haverfield voting **YES**. Councilmembers Levi and Rodriguez voting **NO**. The Mayor declared the

**MOTION CARRIED**

**Item #40** - Mayor Kling opened a **public hearing** for **Zoning Map Amendment** from **RMH** to **BC** at **172, 174, 176, and 178 E. Maine Ave.** for **Amber Steube** representing **Magnolia Investments LLC**.

Amber Steube presented the request

Norm Holm presented the following staff report explaining that the request was for zoning map amendment from RMH (Multi-Family Residential) to BC (Community Business) at 172, 174, 176, 178 East Main Avenue for Amber Steube representing Magnolia Investments LLC.

**General Information**

**Planning & Zoning Commission Recommendation:** Approval with no conditions.

**Planning & Zoning History:** When the property was annexed and zoned by the applicant it was zoned for multiple family residential use the same as the associated Berkshire Apartments property to the east also owned by the applicant at the time. The subject property was later developed for commercial uses without a rezone to commercial. The applicant seeks to correct that error and bring the zoning into compliance with the existing land use for the parcel.

**Proposed Land Uses:** No change in use is proposed. **Surrounding Land Use and Zoning:** North- Nampa Recreation Center, RP (Residential Professional); South- Commercial, BC (Community Business); East- Commercial, Residential, RMH (Multiple-Family Residential); West- Commercial, BC.

**Comprehensive Plan Designation:** General Commercial with Public to the north. The requested zoning map amendment is as complying with the General Commercial land use designation.

**Applicable Regulations:** Rezones or zoning map amendments must be reasonably necessary, in the interest of the public, further promote the purposes of zoning, and agree with the adopted comprehensive plan for the neighborhood.

**Special Information**

Regular Council  
March 19, 2018

**Public Utilities:** 8” sewer main located in E. Maine Ave., 8” water main located in E. Maine Ave., 8” irrigation main located to the south side of E. Maine Ave.; **Public Services:** All present.;

**Transportation and Traffic:** The property has frontage on E. Maine Ave. with access to 12<sup>th</sup> Ave. Rd. to the west.; **Environmental:** The rezone would have little effect on the adjoining properties. The adjoining properties to the south are already zoned BC with compatible uses.

### **Staff Findings and Discussion**

The requested rezone is appropriate. The parcel has a General Commercial use designation on the Comprehensive Plan future land use map. The requested zoning map amendment interpreted as complying with this designation.

If the City Council votes to accept the Planning and Zoning Commission recommendation to approve the following findings are suggested:

- 1) Rezone of the subject property to BC is reasonably necessary in order to allow the applicant to correct an error in the original zoning placed on the property and bring the zoning in conformance with existing and future land uses.
- 2) Rezone of the subject property to BC is in the interest of the property owner and conforms to the adopted comprehensive plan designation of General Commercial use.
- 3) The proposed Commercial use of the subject property will be compatible with the existing commercial uses established along 12<sup>th</sup> Avenue Rd.
- 4) The use of a development agreement to establish any conditions for the requested zoning amendment serves no purposes.

At the date of this memo I have received no statements of opposition or support from any property owners, businesses, or residents in or around the area.

No one appeared in favor of or in opposition to the request.

**MOVED** by Hogaboam and **SECONDED** by Rodriguez to **close** the **public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

**MOTION CARRIED**

**MOVED** by Skaug and **SECONDED** by Haverfield to **approve** the **Zoning Map Amendment** from **RMH** to **BC** at **172, 174, 176, and 178 E. Maine Ave.** for **Amber Steube** representing

Regular Council  
March 19, 2018

**Magnolia Investments LLC and agree with the findings that are recommended by staff** and authorize the City Attorney to draw the appropriate ordinance. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
MOTION CARRIED

**Item #29** - Mayor Kling presented the request to **authorize Public Works Director to sign deferral agreement for Norman G. Peck at 0 Smith Ave.**

Michael Fuss presented a staff report explaining that the property owner at 0 Smith Avenue is preparing to build a house on the property and has requested a deferral of the requirement for installing curb, gutter and sidewalk, see attached exhibit "1"

Currently Smith Avenue east of Midland serves as access for three homes. The roadway is improved as a gravel surface that is not maintained by the City.

The right of way has been dedicated for a future crossing of the Elijah Drain but the City does not have any current plans to make this connection.

A deferral for construction of the required improvements may be granted in accordance with Section 9-3-1 of the Nampa City Code.

The deferral agreement if approved requires the property owner to install the deferred improvements when the City requires it.

The Engineering Division has reviewed the location and does not oppose the granting of the requested deferral.

**MOVED** by Skaug and **SECONDED** by Rodriguez to **authorize Public Works Director to sign Deferral Agreement for Norman G. Peck at 0 Smith Avenue.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the  
MOTION CARRIED

**Item #30** - Mayor Kling presented the request to **authorize the Mayor to sign a 12-month agreement for the lease of wastewater treatment capacity with Admiral Beverage Corporation.**

Michael Fuss presented a staff report explaining that since September 2017 Admiral Beverage Corporation (Admiral Beverage) has experienced business growth, generating this request to utilize the City's Wastewater Industrial Incentive Policy (Exhibit A).



Regular Council  
March 19, 2018

Admiral Beverage discharge limits are established in their Industrial Waste Acceptance Permit (IWAP). Permit limits are monitored by Environmental Compliance Division (ECD) as part of the City's pretreatment program (City Code Title 8, Chapter 9). The IWAP limits also help protect the Nampa Wastewater Treatment Plant from effluent National Pollutant Discharge Elimination System (NPDES) Permit violations and fines.

Earlier this year City Council approved two, short-term loans of wastewater capacity for Admiral Beverage. The first was for 25,000 gal/day Flow on January 2, 2018, and the second was for 40 lbs./day of Total Suspended Solids (TSS) on February 5, 2018. Both will expire on March 31, 2018.

The short-term capacity loans allowed Admiral Beverage to continue business operations without interruption and to work with the City to develop a 24-month capacity loan agreement.

Admiral Beverage determined that a 12-month capacity lease would provide adequate time to evaluate long-term capacity needs and identify the amount of additional sewer capacity to purchase.

In accordance with the lease provisions within the policy:

- a) Engineering Division has established that capacity is available
- b) Economic Development Department has recommended a lease be established

A lease of wastewater capacity is described in Section 6 of the Wastewater Industrial Incentive Policy. No payment terms are explicitly defined for a lease agreement. The City's wastewater financial consultant, FCS Group, was contracted with and developed a weighted average cost of capital to determine an effective interest rate of 7.5% (Exhibit B). The lease payment is then equal to 7.5% of the sewer connection fee per annum (Exhibit C).

On March 5, 2018, Admiral Beverage submitted a petition for a 12-month lease of wastewater capacity.

On March 7, Board of Appraisers (BOA) considered the lease agreement criteria below:

- Petition from Admiral Beverage requesting additional Sewer Capacity of Flow = 25,000 gal/day and TSS = 40 lbs./day
- Sewer connection fee purchase price of \$155,113.70
- 12-month lease starting on April 1, 2018, and ending on March 31, 2019
- Twelve (12) consecutive monthly payments of \$969.59
- Total payment of \$11,633.52

Regular Council  
March 19, 2018

The BOA passed a motion recommending City Council approve the 12-month lease agreement criteria, and the 12-month lease agreement with Admiral Beverage Corporation with twelve (12) consecutive monthly payments of \$969.58 (Exhibit D).

Public Works staff and the City's legal counsel have reviewed the agreement and recommend approval.

**MOVED** by Bruner and **SECONDED** by Skaug to **authorize the Mayor to sign 12-month Agreement for the Lease of Wastewater Treatment Capacity with Admiral Beverage Corporation.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES.** The Mayor declared the

MOTION CARRIED

**Item #31 - Mayor Kling presented the request to authorize immediate piggyback purchase of Pavement Parking Thermo Plastics from Flint Trading for Street Division.**

Michael Fuss presented a staff report explaining that the Public Works Pavement Management Program has identified the need for the use of pavement marking thermo plastics.

The City's Street Division proposes to replace pavement markings, at an estimated cost of \$50,000.00 for crosswalks, stop bars and arrows in Zones C1 and C2 this year. Markings will be applied after all patching, crack sealing, chipping and fog sealing.

The Street Division requests purchase of pavement marking thermo plastics through the piggyback bidding process.

The piggyback process allows any governmental agency to use the bid of another governmental agency to establish the price for procurement, provided the initial process satisfied the public bidding rules and the supplier is willing to honor the price.

Flint Trading, a thermo plastics distributor, was awarded the State of Idaho Transportation Department contract through a bid process this fiscal year.

This selected distributor has stated it will honor the same pricing to the City of Nampa. This acquisition will be funded from the Pavement Management fiscal year 2018 budget.

**MOVED** by Haverfield and **SECONDED** by Bruner to **authorize immediate piggyback purchase of pavement marking thermo plastics from Flint Trading,** at an estimated cost of **\$50,000.00,** for **Street Division.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES.** The Mayor declared the

MOTION CARRIED

Regular Council  
March 19, 2018

**Item #32** - Mayor Kling presented the request to **authorize piggyback purchase of chip/fog sealing oils** from **Idaho Asphalt Supply** for **Street Division**.

Michael Fuss presented a staff report explaining that the Public Works Department Street Division proposes to place 485 tons of CRS-2R (chip sealing oil) and 142 tons of CSS-1H-DIL (fog sealing oil), at an estimated cost of \$270,000.00 for chip sealing Zones C1 and C2 this year. The chip/fog sealing process will be applied after all patching, and crack sealing in June.

The Street Division requests purchase of chip/fog sealing oils through the piggyback bidding process.

The piggyback process allows any governmental agency to use the bid of another governmental agency to establish the price for procurement, provided that the initial process satisfied the public bidding rules and the supplier is willing to honor the price.

Idaho Asphalt Supply, a liquid oil distributor, was awarded the Nampa Highway District contract through the bid process.

This selected distributor has stated it will honor the same pricing to the City of Nampa.

This acquisition will be funded from the Pavement Management fiscal year 2018 budget.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **authorize piggyback purchase of chip/fog seal oils** from **Idaho Asphalt Supply**, at an estimated cost of **\$270,000.00**, for the **Street Division**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #33** - Mayor Kling presented the request to **CDBG reallocation discussion**.

Economic Development Director Beth Ineck presented a staff report explaining that the we had several projects in our 2016 allocation that did not utilize all of their funding in the CDBG program. Some of them included the administration funding we under spent by \$20,000 in our admin budget, we had a project Creek Bridge Apartments that did not move forward at all that was \$20,000, our brush up Nampa we under spent by about \$5,000 and our critical home owner repair program has significant amount of program income we had some loans that were paid off and then we also under spent a little bit with that we had \$50,000 that was unspent for 2016. Then our emergency rental assistance program underspent by about \$10,000 and then in addition in 2015 we had a few projects that were underspent as well so at this point we have approximately \$182,000 of funds that need reallocated. I received information from Public Works on the downtown sidewalks project and they anticipate an additional \$50,000 that will not be spent on that project that would

need reallocated as well. So if you combine the two of those there is \$232,000. These funds certainly do have some time sensitivity and our public participation process a 30 day comment period and so we wanted to get some direction from Council before we initiate that in how you would like these allocated.

Recognizing that time is of the essence for them and getting these funds deployed and benefitting the community we have identified a few projects that we believe could be executed fairly quickly.

1. North Canyon Street Project, which was submitted by public works in the 2017 application cycle it was funded at \$48,000 and then have actually identified a need for \$160,000 more they are looking to make ped ramp improvements on Canyon Street and there is one intersection of Canyon and Davis that is just outside the eligible area so we would not be able to do those two corners but there would be three other intersections that could be done.
2. The owners of the Van England Apartments in downtown Nampa are looking doing a complete overhaul and remodel of their building and they came to us looking for a façade grant project through our downtown façade program, it is not eligible under our façade program as is because it is not a commercial use, but it would be eligible under the housing side of the CDBG projects, it could be considered, we typically do a \$40,000 program on the and it is a forgivable loan, it would be established a as loan as long as they maintain the property for at least five years it turns over to a grant. We can follow the same façade rules that we have for the commercial side if that was of interest.
3. To complete the acquisition of the Stoddard property, the Stoddard line from Sherman to Second Street. The last figures that we had from the railroad was \$134,000.

We have looked at a few other potential projects I know that there is a lot of interest in the North Nampa area and we were not able to kind of put something together quickly but we could deploy the funds fully before October.

There is also the potential if you wanted to take a look at our critical home loan program and kind of mimic that or add to it to allow for us to spend funds on sidewalk improvements. I know that there has been a lot of conversations thru the LID process on some of the forced LID for sidewalk improvements for low income individuals. We could look at either doing a loan program or essentially a lean that goes on the house when the house is sold the loan is paid off or they pay a very small amount whatever is affordable similar to our critical needs program. You could also set it up as a grant program where we just pay for those sidewalk improvements with that low/moderate income beneficiary, we don't put it as a loan. If you wanted to do the sidewalk project I would recommend starting out with a small amount maybe \$10 to \$20,000 because it might take a little longer for those funds longer to get deployed because obviously require the

Regular Council  
March 19, 2018

Davis Bacon wages and so we might not be able to get that intergraded into the LID process this year but could do it with our process next year.

Councilmembers asked questions.

**Councilmembers said that Canyon Street (\$160,000) and Van England (\$40,000) and sidewalk (\$10,000 or \$20,000)**

**Item #34** - Mayor Kling presented the request to **discussion of sisterhood agreement** between **Tizapan el Alto, Jalisco** and Nampa, Idaho.

Mayor Kling presented a staff report explaining that in a recent meeting with the Council of Mexico they brought to our attention that we had an existing relationship, which was a sisterhood agreement with this City. It was signed back in 2002 and as we met they sent the documents, and I just forwarded the agreement to Mark Hilty. I just wanted to ask the Council if would support us going back and revisiting that agreement to continue our sisterhood agreement with them as it was stated.

Councilmember Levi asked questions.

Councilmember Skaug explained that it was a time we were going through Latino gangs and it was a bad time in our City that way and there was getting to be a little bit of animosity in race and Mayor Dale thought lets bring us together and get a sister city started and he was getting hammered for wanting to do it. I called him and said we will help pay for it lets do it.

We went down it was all donated funds we got a good sister city relationship with **Tizapan el Alto** they donated to the Hispanic cultural center to help that get built, we sent hospital goods down to them through private entities. They needed to get a clinic going and we made good friends and over the years it died out. I am still in contact with one of those officials we kept friendship through two of their Mayor sessions and one of their Mayors came up here. It kinda died out partly due to the increasing drug crime that went on down there, they told us don't come down right now.

If we can move forward with legal and then bring it back to council and change what we want.

Legal said that he believed that the agreement was still in place the termination steps that have never been taken so agreement is in place so if there are changes that Council would like to make to revive this. . . .

**Item #35** - Mayor Kling presented the request to **deferral of paving** for **Veronica Buxton & Sam Wolfe** DBA The White Barn located at **411 S. Happy Valley Rd.**

Regular Council  
March 19, 2018

Robert Hobbs presented a staff report explaining that in 2017 we restored the 100-year-old white barn on Happy Valley Rd and transformed it into wedding venue and event space. It was such an honor to keep this historical building intact and is such an honor to share it with the surrounding community. We are happy to be in the final phases making it available to the public.

We are writing to ask for a three-year deferral in the requirement to pave the gravel driveway to the barn. At this time, we would like to keep the driveway as is which consists of 6 inches of pit run then 6 inches of  $\frac{3}{4}$  minus road base.

After over a year of construction on the barn, the driveway has shown no signs of drainage or erosion issues, and we are concerned the blacktop service would create an issue that doesn't currently exist. We also believe the historic value and restoration of the barn would be diminished by a large blacktop parking lot. Finally, before making a large permanent investment in paving over the gravel parking lot, we would like to make sure the venue, under its proposed use, is a successful, profitable, and sustainable endeavor.

We will be pouring concrete for the ADA parking spaces and sidewalk to the ramp entrance of the barn. Attached a mockup of the driveway and an aerial view from google earth as well as the permission letter from the school to use their paved parking lot.

We've also double checked with the fire department to make sure that the current driveway surface works for them.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **approve** the **deferral of paving** for **Veronica Buxton & Sam Wolfe DBA The White Barn** located at **411 S. Happy Valley Rd.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**MOVED** by Hogaboam and **SECONDED** by Rodriguez to **adjourn** the **meeting** at 10:31 p.m. The Mayor declared the

MOTION CARRIED

Passed this 16th day of April 2018.

---

MAYOR

ATTEST:

---

CITY CLERK