

## REGULAR COUNCIL

June 18, 2018

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

Mayor Kling explained about the Nampa City Council meeting being livestreamed for the first time tonight. We are using a livestream platform. Tonight, is a test night. There is a hyperlink at [cityofnampa.us](http://cityofnampa.us) right on the front page. The live stream will be archived like our audio.

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

Councilmember Haverfield presented a correction to the Emergency Special Council minutes of June 1, 2018. The motion should have been by Haverfield and Seconded by Skaug for declaring the state of emergency.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **approve the Consent Agenda with the above mentioned amendment to the Special minutes; Regular Council Minutes of June 4, 2018; Emergency Council Meeting of June 1, 2018; Special Council Meeting of June 4, 2018; Bicycle and Pedestrian Advisory Committee Minutes; Board of Appraisers Minutes; Airport Commission Minutes of May 14, 2018; Planning & Zoning Commission Minutes; 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) Short Plat Approval for Greenbriar Estates Subdivision No. 3 in an RP (Residential Professional) zoning district on proposed W. Bayberry Lane for a 1.7-acre portion of the SE 1/4 of the SW 1/4 of Section 4, T2N, R2W, BM) for John Esposito; 2) Canyon Creek Subdivision No. 2 at 17309 & 17447 N. Can Ada Rd. (A parcel of land located in the N 1/2 of the SE 1/4 of Section 1, T3N, R2W, BM - 63 single family lots on 22.99 acres for 2.74 lots/gross acre) for Bailey Engineering representing Toll Southwest LLC; 3) Canyon Creek Subdivision No. 3 south of Canyon Creek Subdivision No. 2 at 17309 & 17447 N. Can Ada Rd. (A parcel of land located in the N 1/2 of the SE 1/4 of Section 1, T3N, R2W, BM - 58 single family lots on 17.95 acres for 3.23 lots/gross acre) for Bailey Engineering representing Toll Southwest LLC; 4) Meadowcrest Subdivision No. 1 at the Northeast corner of Lake Lowell Ave. and So. Middleton Rd. (A portion of the SW 1/4 of the SW 1/4 of Section 29, T3N, R2W, BM - 35 Single Family Residential lots on 10.34 acres or 3.38 lots/acre) for Hayden Homes Idaho LLC, Tim Mokwa; 5) Pheasant Meadows Subdivision in a RS 7 (Single Family Residential - 7,000 sq. ft.) zoning district at 60 S. Grays Lane (48 single family lots on 14.82 for 3.24 lots per gross acre - A portion of Tracts 9, 10 and a portion of the vacated rights-of-way of Nampa Orchard Tract Co. Subdivision, a portion of Lots 2, 3, 4 and a portion of Lots 9-17, Block 1 of Park Ridge Meadows Subdivision No. 1, and a portion of the SW 1/4 of the NE 1/4 of Section 25, T3N, R2W, BM) for Matt Schultz representing Second Chance Equity Partners, LLC; **Authorize Public Hearings:** 1) Annexation and Zoning to RS 6 (Single Family Residential - 6,000 sq. ft.) for Edmonds Hollow Subdivision on the west side of N. Middleton Rd. between W. Willow Ave. and Orchard Ave. (A 9.903 acre or 431,358 sq. ft. portion of the Southeast Quarter of Section 18, T3N, R2W, BM - 38 Single Family Residential lots on 9.903 acres or 3.84 dwelling units/gross acre) for Riley Planning Services, representing Rosalyn Edmonds; 2) A) Zoning Map Amendment from RS 8.5 (Single Family Residential - 8,500 sq. ft.) to RS 7 (Single Family Residential - 7,000 sq. ft.) between Madison Rd. and Franklin Rd. south of E. Spruce St. and north of Ustick Rd. (A 95.98 acre parcel

of land being a portion of the NE 1/4 and a portion of the SE 1/4 of Section 34, T4N, R2W, BM); B) Annexation and Zoning to RS 7 for an easterly portion of 18360 Madison Rd. (A .40-acre portion of the NW 1/4 SE 1/4 of Section 34, T4N, R2W, BM) and C) Annexation and Zoning to RS 7 for 0 Madison Rd. (A 3.2 acre portion of the NW 1/4 SE 1/4 and a portion of the SW 1/4 SE 1/4 of Section 34, T4N, R2W, BM); for Ridgevue Estates Subdivision in an RS 7 (Single Family Residential - 7,000 sq. ft.) zoning district between Madison Rd. and Franklin Rd. south of E. Spruce St. and north of Ustick Rd. (358 single family residential lots on 99.47 acres for 3.59 lots per gross acre - A parcel of land being a portion of the NE 1/4 and a portion of the SE 1/4 of Section 34, T4N, R2W, BM) for Mason and Associates representing Michael Riggs; 3) Annexation and Zoning to RS6 (Single Family Residential - 6,000 sq. ft.) to connect to city irrigation service at 2121 Sunny Ridge Rd. (A 3.257-acre parcel located in the SW 1/4 of the SW 1/4 of Section 34, T3N, R2W, BM) for Doyle Fulkes representing Southern Idaho District Assemblies of God; 4) Amendment of Title 10 Chapter 3 Section 10-3-2 of the Nampa Zoning Ordinance - Schedule of District Land Use Controls for the Commercial Land Use/Building Occupancy Type allowing "Liquor store, package" to be listed as a "P" permitted use in the GB1 (Gateway Business 1) District/Zone for Deborah E. Nelson representing Cameron S-Sixteen Retail LLC; 5) De-Annexation or Annexation of the following portions of Various Street Right-Of-Ways to clean up Roadway Annexations for the City of Nampa and Highway Districts will be held before the Nampa Planning and Zoning Commission: • De-Annexation of a 1.63-acre portion of the right-of-way of Orchard Avenue located in the NW 1/4 of the NE 1/4 of Section 19, T3N, R2W, BM (DANX 007-18). • De-Annexation of a .802-acre portion of the right-of-way of Lake Lowell Avenue located in the NW 1/4 of the NE 1/4 of Section 31, T3N, R2W, BM (DANX 008-18). • De-Annexation of a .287-acre portion of the right-of-way of Madison Avenue located in the SE 1/4 of the NW 1/4 of Section 10, T3N, R2W, BM to clean up roadway (DANX 009-18). • De-Annexation of a 1.517-acre portion of the right-of-way of N Can-Ada Road located in the NE 1/4 of the SE 1/4 of Section 1, T3N, R2W, BM (DANX 010-18). • De-Annexation of a .204-acre portion of the right-of-way of S Happy Valley Road located in the NW 1/4 of Section 30, T3N, R1W, BM; and De-Annexation of a 1.596-acre portion of S Happy Valley Road located in the SE 1/4 and the SE 1/4 of the NE 1/4 of Section 36, T3N, R2W, BM (DANX 011-18). • De-Annexation of a 1.071-acre portion of the right-of-way of Cherry Lane located in the NW 1/4 of the NW 1/4 of Section 9, T3N, R2W, BM; and De-Annexation of a .207-acre portion of Cherry Lane located in the NE 1/4 of the NW 1/4 of Section 9, T3N, R2W, BM (DANX 012-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .120-acre portion of the right-of-way of S Happy Valley Road located in Government Lot 1 of Section 1, T2N, R2W, BM (ANN 085-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .299-acre portion of the right-of-way of Star Road located in the NW 1/4 of Section 17, T3N, R1W, BM (ANN 086-18). • Annexation and Zoning to the same zoning as the adjacent private property for a 1.081-acre portion of the right-of-way of S Powerline Road located in the NW 1/4 of Section 2 and the NE 1/4 of Section 3, T2N, R2W, BM (ANN 089-18). • Annexation and Zoning to the same zoning as the adjacent private property for a 2.222-acre portion of the right-of-way of Ustick Road located in the NE 1/4 of Section 3, T3N, R2W and the SE 1/4 of Section 34, T4N, R2W, BM (ANN 090-18). • Annexation and Zoning to the same

Regular Council  
June 18, 2018

zoning as the adjacent private property for a .103-acre portion of the right-of-way of W Greenhurst Road located in Government Lot 4 of Section 4, T2N, R2W, BM; and Annexation and Zoning to the same zoning as the adjacent private property for a .076-acre portion of the right-of-way of W Greenhurst Road located in Government Lot 3 of Section 4, T2N, R2W, BM (ANN 091-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .201-acre portion of the right-of-way of W Roosevelt Avenue located in the SE ¼ of the NW ¼ of Section 28, T3N, R2W, BM (ANN 093-18). • Annexation and Zoning to the same zoning as the adjacent private property for a 1.404-acre portion of the right-of-way of W Railroad Street located in the SE ¼ of Section 36, T3N, R2W, BM (ANN 094-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .629-acre portion of the right-of-way of Lake Lowell Avenue located in the SW ¼ of the SE ¼ of Section 30, and the NW ¼ of the NE ¼ of Section 31, T3N, R2W, BM (ANN 095-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .594-acre portion, a .153 acre-portion, and a .233-acre portion of the right-of-way of W Orchard Avenue located in the SW ¼ of Section 17, T3N, R2W, BM (ANN 096-18). • Annexation and Zoning to the same zoning as the adjacent private property for a .095-acre portion of the right-of-way of Cherry Lane located in the SW ¼ of the SE ¼ of Section 3, T3N, R2W, BM; and Annexation and Zoning to the same zoning as the adjacent private property for a 1.296-acre portion of the right-of-way of Cherry Lane located in the SE ¼ of the SE ¼ of Section 4 and the NE ¼ of the NE ¼ of Section 9, T3N, R2W, BM (ANN 097-18). • Annexation and Zoning to the same zoning as the adjacent private property for a 1.090-acre portion of the right-of-way of Ten Lane located in the NW ¼ of Section 9, T3N, R2W, BM (ANN 098-18). **Authorize to Proceed with Bidding Process:** 1) None; **Authorization for execution of Contracts and Agreements:** 1) None; **Monthly Cash Report:** 1) May of 2018; **Resolutions:** 1) Disposal of (3) Various Sized Building Plans Holders; **None License for 2018:** None; **Miscellaneous Items:** 1) None. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. Mayor Kling declared the

MOTION CARRIED

**Item #12** – Proclamation - None

Mayor Kling asked if there was anyone wishing to speak on any item that was not on the agenda:

- Joan Fraizer, 2016 5<sup>th</sup> Street South – Downtown Nampa (Old Train Station – Village with bistros and a tram) and an Uptown Nampa near Costco

Mayor Kling asked if there was anyone wishing to speak on any agenda item were:

- Margy Potter, 1811 North Cobble Way – Item #22 CDBG Fund Decision (Salvation Army)
- Pamela Krajnick, 9762 Deerflat Road - Item #22 CDBG Fund Decision (Salvation Army)
- Vera Beltran, 1412 4<sup>th</sup> Street South – Item #22 CDBG Fund Decision (Salvation Army)
- Emily Young, 1412 4<sup>th</sup> Street South - Item #22 CDBG Fund Decision (Salvation Army)
- Kenton Lee, 216 12<sup>th</sup> Avenue North – Item #22 CDBG Fund Decision (Salvation Army)

Regular Council  
June 18, 2018

- Kenny Wroten, 4537 E Tuscany Avenue – Item #22 CDBG Fund Decision (Salvation Army)
- Nancy Tuttle, 1620 W Blaine Avenue - Item #22 CDBG Fund Decision (Salvation Army)
- Estela Delrayo, 700 E Amity Avenue - Item #22 CDBG Fund Decision (Salvation Army)
- Major Mike Halverson - Item #22 CDBG Fund Decision (Salvation Army)

Councilmember Bruner asked if the council could make a decision on the public service and leave the administration and the community housing portion for after the public hearings.

Councilmember Haverfield explained that he does serve on the advisory board for the Salvation Army.

Councilmember Skaug said that he served on the board in the 1990's.

**Item #22** - Mayor Kling presented the request to **CDBG Funding Decision for the public portion only**.

Economic Development Assistant Director Robyn Sellers presented a staff report explaining that the City of Nampa receives Community Development Block Grant Fund every year from the federal government to be used for community development in our city, most specifically to develop and sustain resources that benefit low and moderate-income persons and to aid in the prevention or elimination of slums or blight.

Background: Fourteen applications were presented to the Council on June 11th at which time each applicant could present their project. The proposed projects are divided into three categories:

Administration/Planning, Public Services and Housing/Community Development.

Limits to allocation:

- Federal regulations mandate that we can allocate a maximum of 20% of our entitlement funds to Administration & Planning.
- Federal regulations mandate that we can allocate a maximum of 15% of our entitlement funds to Public Service.
- The Council adopted City of Nampa Application Guidelines for program year 2018 which states:
  - o No more than 4 Public Service sub recipients (non-city sponsored projects) would be funded; and
  - o If a funded public service applicant generates program income the city would limit the allocation to public service to 13%. This equates to: \$107,773.12 (13%) for public service projects or 15% (\$124,353.60)

Regular Council  
June 18, 2018

- After staff calculations of the submitted applications, staff recommends City Council motion to amend the guidelines to allow up to 14% (\$116,063.36) of the CDBG funds to be allocated to Public Service projects as the City would be within the regulations.

Federal regulations mandate the limit of funds EXPENDED within the downtown districts to no more than 30% over a cumulative three-year period. Program Year 2017 was the first year of the current 3-year period. At the end of September 2018, we anticipate expending \$246,247.80 for this current 3-year certification cycle on previously funded projects. There are no requests for funds within the downtown district in Program Year 2018.

**Application Changes since Submission** – None

**Recommendations for Funding for Program Year 2018:** Matrix 1 sums up the ranking of the projects from the review committee HUD has asked us to provide you with a funding recommendation and this has been included in Matrix 1. The total amount of funds available for all projects after Administration Set Aside is \$677,024.00.

HUD Entitlement is:	\$ 829,024.00
Admin:	\$ 152,000.00
Total available for Projects (including PS):	\$ 677,024.00
PS Funding Recommendation at 14% Cap:	\$ 116,063.36
Total Available for Housing/Community Development Projects =	\$560,960.64

Administration & Planning: City Staff requested \$13,804.80 less than the maximum available for Administration due to staffing changes and reorganization. This puts the administration & planning at 18% of the entitlement, keeping within the 20% max. cap.

Public Service: The Review Committee & CDBG staff recommends Council amend the Program Year 2018 guidelines to allow 14%. All options presented by the review committee identify Public Services projects to be funding with the 14% cap. As identified in the guidelines, CDBG staff recommends approving no more than 4 public service projects.

HUD regulations prohibit awarding funding to programs that are duplicating services. This program year we have four applicants who are duplicating services. CATCH of Canyon County and Salvation Army have both applied for funds for Rapid Rehousing programs. Jesse Tree and Advocates Against Family Violence have both applied for Rental Assistance.

CDBG staff completed a monitoring of Salvation Army’s Rapid Rehousing program on May 29, 2018. Staff documented formal “findings” of non-compliance to CDBG rules and regulations. Per the 2018 application guidelines this makes Salvation Army’s Rapid Rehousing program ineligible

Regular Council  
June 18, 2018

for funding. Staff recommends an allocation to Salvation Army with the specific use to be determined between City staff and Salvation Army with final City Council approval. Staff also recommends giving more funding to CATCH of Canyon County to help meet Rapid Rehousing needs in Nampa.

HUD identifies two conditions that need to be met to fund organizations that are duplicating services. The first is to prove that there is a need for duplication and the second is that funds are being used for different functions of the project, i.e. staff time and program assistance. In the case of rental assistance funding for Jesse Tree and Advocates Against Family Violence is it difficult to document for HUD. Jesse Tree did not spend down all of their funds in PY2016 and in the current Program Year 2017 they have only spent 40% of their funding award with 3 months left in the award year cycle. Additionally, in the presentation by Advocates Against Family Violence they stated there is a Nampa resident waitlist for their services. Therefore, the recommendation is to give funds to Advocates Against Family Violence.

All public service projects are shown in the matrix 1 are based on their ranking order by the review committee.

Housing/Community Development: All housing/community development projects are shown in the matrix based on their ranking order by the review committee.

At the Council Meeting on June 18th, you will be asked to allocate the funding for the 2018 program year and to prioritize funding for the reallocation of funds. A 30-day public comment period will follow starting on June 22th. The adoption of the Program Year 2018 CDBG Annual Action Plan will occur during a Public Hearing on August 6th.

Councilmembers asked question of staff.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to modify the option recommended to CATCH to \$20,000; Meals on Wheels \$32,000; Advocates Against Family Violence \$24,063.36; and Salvation Army Fully Funded at \$40,000 as requested.

Councilmembers had discussion.

Mayor Kling asked the question about the CDBG guidelines in that we do not fund duplicate services for us to go against that procedure do we need to change the guidelines and have a vote that proceeds because we are not actually abiding by something that the City Council has voted on.

Councilmember Haverfield withdrew his motion and Councilmember Rodriguez withdrew his second.

Regular Council  
June 18, 2018

**MOVED** by Haverfield and **SECONDED** by Rodriguez to all **city staff** to draft an **amendment** to the **guidelines** to **HUD** to allow **duplication in categories** based on the identification of need.

Councilmembers made comments on the requests.

The Mayor asked for a roll call vote with Councilmembers Skaug, Levi, Rodriguez, Haverfield voting **YES**. Councilmember Bruner voting **NO** and Councilmember Hogaboam **ABSENT**. The Mayor declared the

MOTION CARRIED

**MOVED** by Haverfield and **SECONDED** by Rodriguez to modify the option recommended to **CATCH** to \$20,000; **Meals on Wheels** to \$32,000; **Advocates Against Family Violence** to \$24,063.36; and **Salvation Army Fully Funded** at \$40,000 as requested.

Councilmembers made comments on the motion.

The Mayor asked for a roll call vote with Councilmembers Skaug, Levi, Rodriguez, Haverfield voting **YES**. Councilmember Bruner voting **NO** and Councilmember Hogaboam was **ABSENT**. The Mayor declared the

MOTION CARRIED

**Item #29** - Mayor Kling opened a **public hearing** for **Continued from 5/21 Meeting – PH Still Open** Annexation and Zoning to IL for Proposed Lot Split and Auto Repair at 29 N. Happy Valley Rd. for Rogelio H. Gallegos.

Rogelio Gallegos asked that the public hearing be continued for three months.

Planning and Zoning Director Norm Holm presented the following staff report explaining that the request is for annexation and zoning to IL (Light Industrial) for proposed lot split and auto repair at 29 North Happy Valley Road for Rogelio H Gallegos.

**New Information**

The Engineering Division recommends tabling decision on this annexation and zoning for 3 months to allow the owner/applicant time to file with the FAA a Notice of Proposed Construction or Alteration (Form 7460).

General Information

**Planning and Zoning Recommendation:** Approval subject to recommended conditions. **Zoning & Planning History:** The southerly building has been used for Hillcrest Meat Packing for many years with the adjacent residence to the north. This item was advertised to be heard at the March

Regular Council  
June 18, 2018

27, 2018 meeting. That meeting was cancelled due to a lack of a Commission quorum to conduct business and the public hearing re-advertised for the April 24, 2018 public hearing. **Status of Applicant:** Owner. **Annexation Location:** 29 N. Happy Valley Rd., a portion of the North 1/2 of the SE 1/4 of Section 24, T3N, R2W, BM. **Total Size:** 1.492 acres or 65,000 sq. ft. **Existing Zoning:** RR (County - Rural Residential) **Proposed Zoning:** IL (City - Light Industrial) **Comprehensive Plan Designation:** Light Industrial. **Applicable Regulations:** In order for a property to be annexed it must be contiguous with the city limits or be enclaved by other properties so annexed. This parcel adjoins the airport/city limits along its' southerly boundary. **Existing Uses:** Former site of Hillcrest Meat Packing, etc. **Applicant Reason for Annexation and Zoning:** For Lot Split and Auto Repair.

### **Special Information**

**Public Utilities:** 12" water line in N. Happy Valley 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 developed industrial/rural residential property. **Transportation:** Access to the property is from N. Happy Valley 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 Planning & Zoning Commission votes to recommend approval of the annexation and zoning to the City Council the following findings are suggested:

- 1) The requested annexation area adjoins the city limits along its' southerly boundary.
- 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.
- 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 proposed lot split and establishment of an auto repair shop on the site.

### **Recommended Conditions of Approval**



Regular Council  
June 18, 2018

If the City Council accepts the Planning and Zoning Commission recommendation and votes to approve the annexation and zoning staff suggests the following conditions of approval as recommended by City Engineering:

- 1) As parcel lies within the Nampa Airport's Air Runway Protection Zone (RPZ), owner is required to meet building height restrictions as dictated by the Nampa Municipal Airport's manager meeting FAA criteria.
- 2) Owner shall file a Form 7460 – Notice of Proposed Construction or Alteration with the FAA and comply with any recommended conditions.
- 3) Change of use and development of the site will require full frontage improvements including, but not limited to-
  - a) Curb, gutter, and sidewalk
  - b) Pavement widening and striping.
  - c) Landscaping as required
  - d) Storm drainage, both on-site retention and off-site public drainage.
- 4) 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 Happy Valley Road.
  - b) Pressure Irrigation: Not currently available. May require installation of a "Dry Line" for future, size to be determined. Required landscape irrigation to be provided via either a dedicated domestic water meter, or another source acceptable to the City.
  - c) Sewer: Not available currently. Continued use of a private septic system will be allowed with SWDH approval.
- 5) Right-of-way dedication required.
  - a) Happy Valley Road: Functional classification is an arterial. Right-of-way width dedication shall be fifty-feet (50') for half of a future one-hundred-foot (100') right-of-way.

**Council agreed with the staff recommending that the public hearing be continued (Public Hearing is still open) to the Council meeting of September 17, 2018.**

**Item #30** - Mayor Kling opened a **public hearing** for **annexation and zoning** to IL with **Development Agreement** for Industrial Development for parcels #'s R3100400000, R3100401100, R3100401000, R3101501000, and R3100500000 surrounding and including **16622 Madison Road** for **Burke and Karen Hansen**.

Burke Hansen, 2410 Sunshine Drive, Boise presented the request.

Regular Council  
June 18, 2018

Norm Holm presented the following staff report explaining that the request is for annexation and zoning to IL (Light Industrial) for industrial development for 5 parcels surrounding and including 16622 Madison Road for Karen and Burke Hansen.

### **General Information**

**Planning and Zoning Commission Recommendation:** Approval subject to the execution of a Development Agreement with specified conditions. **Zoning and Planning History:** The property has been used for agricultural purposes in the past. **Status of Applicant:** Owner. **Annexation Location:** Parcels #'s R3100400000, R3100401100, R3100401000, R3101501000, and R3100500000 surrounding and including 16622 Madison Road, and a portion of the NE 1/4 of Section 10, T3N, R2W, BM. **Total Size:** Approximately 50.773 acres or 2,211,672 sq. ft. **Existing Zoning:** AG (County Agricultural). **Proposed Zoning:** IL (Light Industrial). **Comprehensive Plan Designation:** Light Industrial. **Applicable Regulations:** In order for a property to be annexed it must be contiguous with the city limits or be enclaved by other properties so annexed. These parcels adjoin existing city limits on the south across Birch Lane, on the east adjacent Brandt's Landing Subdivision, and a portion of the west adjacent Madison Industrial Park. **Existing Uses:** Agricultural crop land. **Applicant Reason for Annexation and Zoning:** For ease of future industrial development.

### **Special Information**

**Public Utilities:** 12" water mainline in Madison Rd. and Birch Lane; 12" sewer mainline in Madison Rd. and Birch Lane; 10" irrigation mainline in Madison Rd. and Birch Lane; **Public Services:** Police and fire already service city incorporated areas surrounding the location. **Physical Site Characteristics:** Existing agricultural crop land available for industrial use. **Transportation:** Access to the property is from both Birch Lane and Madison Road. **Correspondence:** Prior to the Commission hearing staff received one verbal communication from a resident of Brandts Landing subdivision across Mason Creek to the east. That resident indicated a desire to have a condition of annexation and zoning approval requiring a berm and landscaping along the east side of the annexed area adjacent Mason Creek and the western boundary of Brandts Landing subdivision. No written correspondence was received from any area property owners, residents or business owners regarding opposition to or support for the requested annexation and zoning to IL prior to the Commission hearing. After the Commission hearing the attached correspondence was received from the Brandts Landing HOA Officers and Architectural Committee expressing their concerns and offering their recommended language for development agreement conditions. Also provided were letters and emails delivered to the HOA from other homeowners. Most expressed opposition to annexation and zoning of the area to light industrial.

### **Staff Findings and Discussion**

Regular Council  
June 18, 2018

After the Planning and Zoning Commission public hearing I met with Burke Hansen and together crafted Development Agreement conditions 1 thru 5 relating to 1) building setback from Mason Creek, 2) outdoor yard and parking area lighting, 3) berming adjacent Mason Creek, and 4) berm landscaping. Mr. Hansen has agreed with each of the recommended development agreement conditions stated below.

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 concurs with the Planning & Zoning Commission and votes to approve of the annexation and zoning to light industrial the following findings are suggested:

- 1) The requested annexation area adjoins existing city limits on the south across Birch Lane, on the east adjacent Brandt’s Landing Subdivision, and a portion of the west adjacent Madison Industrial Park.
- 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 to the south and west have been annexed, zoned, and/or developed for industrial purposes.
- 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 to facilitate ease of future industrial development.
- 5) 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 accepts the Planning & Zoning Commission recommendation and votes to approve the annexation and zoning to light industrial staff recommends execution of a development agreement with the following specific (engineering and planning) recommended conditions:

- 1) The minimum building setback for any future industrial building from Mason Creek shall be 100 feet measured from the centerline of the creek.
- 2) At the time of development of the site, any outdoor yard and parking area lighting installed by the developer within 300’ of the centerline of Mason Creek shall be high pressure sodium lamps, with cut off arm type fixtures, which are directed downward and are relatively low in

height (25 foot to 30-foot pole height) to substantially eliminate glare to or lighting of the residential properties across Mason Creek to the east.

- 3) At the time of development of the site, the developer shall construct an 8' high grassed berm, measured from the top of bank of Mason Creek, along the east side of the Property adjacent Mason Creek. The berm shall be constructed such that the easterly/residential side of the berm shall have a slope that is properly stabilized to prevent erosion, and the westerly/industrial side of the berm shall include either a retaining wall or be constructed to match the easterly/residential side of the berm.
- 4) At the time of development of the site, the developer shall plant and thereafter maintain a combination of staggered deciduous and evergreen trees along the east side of the berm. The number and height of evergreen trees, and the number and caliper size of deciduous trees shall be as determined by the developer's Landscape Architect.
- 5) At time of development of the site, the developer shall extend all public utilities to and through the site in accord with current City Policy and Master Plans. These improvements will include, but not be limited to-
  - a) Sewer main
  - b) Water
  - c) Pressure Irrigation
  - d) Storm drainage, on-site only
  - e) Gravity Irrigation-Either continued delivery to, or wastewater from adjacent properties
- 6) Granting of any access or facility easements for and to the City of Nampa and any other utility company or jurisdictional entity as necessary for the operation and maintenance of any utility existing, proposed, or relocated with the development of this site.
- 7) Abandonment of any existing domestic well or septic systems will be accomplished under the guidelines established by:
  - a) Domestic Well - the Idaho Department of Water Resources
  - b) Septic Systems – Southwest District Health Department
  - c) Copies of all related documents certifying that the well and septic systems have been abandoned shall be forwarded to the City of Nampa Engineering Division for the project files.
- 8) At the time of development, the developer shall submit a traffic impact study compliant with the City's Traffic Impact Study requirements.
- 9) Access shall be in accord with the current adopted Access Management Policy.
- 10) Right-of-way dedication required.
  - a) Madison Road – Functional Classification is a collector. Width shall be 40' from the section line for half of a future 80' right of way.
  - b) Birch Lane – Functional Classification is a collection. Width shall be 40' from the section line for a half of a future 80' right of way
- 11) Full frontage improvements are required and will include, but not be limited to-
  - a) Curb, gutter, and sidewalk
  - b) Pavement widening and striping as required
  - c) Landscaping as required

Regular Council  
June 18, 2018

d) Storm drainage

No one appeared in favor of the request.

Those appearing in opposition to the request were: Jen Adams, 16763 Woodduck Street made comments on the request.

**MOVED** by Haverfield 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 Bruner to **approve the annexation and zoning** to IL with **Development Agreement** for Industrial Development for parcels #'s R3100400000, R3100401100, R3100401000, R3101501000, and R3100500000 surrounding and including **16622 Madison Road** for **Burke and Karen Hansen** with the conditions as defined 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 #31a** - Mayor Kling opened a **public hearing** for **Modification** of [a First Modification] of the below-referenced **Annexation and Zoning Development Agreement** between **SKC Inc.** and the City of Nampa (Ord. no. 4020):

- Amending, as necessary Recitals; Agreement terms; and Exhibit “C” Conditions of Approval and Exhibits as necessary -- for three building lots addressed as 940, 950 & 960 S. Rising Sun Drive comprising a total of 1.375 acres in a RP Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, Boise Meridian, Canyon County, Nampa and,
- Appeal of Planning and Zoning Commission Denial of Conditional Use Permit package (CUP 106-18) to re-instate an expired Conditional Use Permit for 8-plexes on Lots 20, 21, and 22, Block 1, Fall River West in an RP Zone; both requests submitted by Kent Brown representing Biltmore Company

**Item #31b - Modification of Annexation and Zoning Development Agreement** between **SKC Inc.** and the City of Nampa (Ord. no. 3743):

- Amending Exhibit “B” Conceptual Plan to, as necessary, Recitals; and, add a new Conceptual Site Plan changing the use of a portion thereof from commercial to multiple-family residential; and, amending Exhibit “C” Conditions of Approval as necessary -- for two building lots addressed as 920 & 930 S. Rising Sun Drive comprising a total of .868 acres or 37,810 sq. ft. in a BC Zone; and,

Regular Council  
June 18, 2018

- Appeal of Planning and Zoning Commission Denial of Conditional Use Permit package (CUP 106-18) to seek approval of a Conditional Use Permit for 8-plexes on Lots 23 & 25, Block 1, Fall River West in a BC (Community Business) Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, BM; both requests submitted by Kent Brown representing Biltmore Company

Kevin Amar presented the request.

Councilmembers asked the applicant questions.

Planning and Zoning Assistant Director Robert Hobbs presented the following staff report explaining that the requests are for -

**Action Item:** Modification of [a First Modification] of the below-referenced Annexation and Zoning Development Agreement between SKC Inc. and the City of Nampa (Ord. no. 4020):

- Amending, as necessary Recitals; Agreement terms; and Exhibit “C” Conditions of Approval and Exhibits as necessary -- for three building lots addressed as 940, 950 & 960 S. Rising Sun Drive comprising a total of 1.375 acres in a RP (Residential Professional) Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, Boise Meridian, Canyon County, Nampa and,
- Appeal of Planning and Zoning Commission Denial of Conditional Use Permit package (CUP 106-18) to re-instate an expired Conditional Use Permit for 8-plexes on Lots 20, 21, and 22, Block 1, Fall River West in an RP (Residential Professional) Zone; both requests submitted by Kent Brown representing Biltmore Company (APL 007-18).

**Action Item:** Modification of Annexation and Zoning Development Agreement between SKC Inc. and the City of Nampa (Ord. no. 3743):

- Amending Exhibit “B” Conceptual Plant to, as necessary, Recitals; and, add a new Conceptual Site Plan changing the use of a portion thereof from commercial to multiple-family residential; and, amending Exhibit “C” Conditions of Approval as necessary -- for two building lots addressed as 920 & 930 S. Rising Sun Drive comprising a total of .868 acres or 37,810 sq. ft. in a BC (Community Business) Zone; and,

Appeal of Planning and Zoning Commission Denial of Conditional Use Permit package (CUP 106-18) to seek approval of a Conditional Use Permit for 8-plexes on Lots 23 & 25, Block 1, Fall River West in a BC (Community Business) Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, BM; both requests submitted by Kent Brown representing Biltmore Company (APL 007-18).

Regular Council  
June 18, 2018

**History:** In 2007, Steve Cope (acting as SKC, Inc.) applied to the City for approval of a rezone and plat set to facilitate development of the area at the southwest corner of the intersection of Lake Lowell Avenue and Middleton Road. An 18-acre portion of Mr. Cope's property was set aside for a mixed [use] commercial development. The City's Council ultimately approved the proposal. Acting according to their authority, the Council caused that the developer enter into (i.e., be a co-signor with the City on) a land use contract called a "Development Agreement" by state law.

The Agreement was crafted and received Council's approval. Typical of such agreements in our jurisdiction, the Council agreed with the developer in establishing a concept plan for development of the eighteen (18) acres. A copy of that concept was inserted into the Agreement and identified as "Exhibit B-2", "Concept Plan". The Concept Plan is, and was, just that – a concept. The Agreement made allowance for the developer, or his "build-out" of the "Fall River West Commercial Marketplace", to be in but "substantial compliance" with the plan.

Subsequent to adoption of the Development Agreement, the City Council approved, by Special Exception (a permit no longer in our zoning code) the establishment of a RV detail business at the northeast corner of the commercial property. The business was later allowed to add, as an accessory use, the sale of RVs to its operation. The concept plan shows a multi-tenant pair of retail uses in that location.

In 2012, Mr. Cope returned to the City seeking approval to convert three of the pad sites shown in the marketplace as future, potential, office areas into eight (8) unit multiple-family buildings. The request invoked the requirement that the developer file a rezone application. The request was approved by the City and the RP (Residential Professional) Zone was chosen as a/the suitable land use district to superimpose over the three lots addressed as 940, 950 & 960 S. Rising Sun Drive (i.e., Lots 20-22, Block 1) given its residential/commercial hybrid nature – believing it a good "fit" for those properties (Ord. no. 2012026030). As part of the approval, Mr. Cope was compelled by the City to enter into another Development Agreement – actually a Development Agreement Modification (Ord. no. 4021 recorded as Instr. # 2012026031). The Modification allowed for three (3) eight-plex apartment buildings to be built by Mr. Cope in accordance with certain design elevations and with the accompaniment of garages to serve their future occupants.

Since 2012, Mr. Cope has attempted to market his commercial project with little success. Recently, a daycare and gym were allowed to be built in the development. Staff did not require that they file for a Development Agreement Modification as they were both considered to be a form of commercial enterprise, positioned in locations suggested for commercial retail space and were not expected to generate adjoining neighborhood concerns given their distance away from the Fall River housing area to the east on account of their distance thereto, their commercial nature, their building massing/size, their height, and, the fact that they are not apartment buildings.

Regular Council  
June 18, 2018

Mr. Cope has sold the lots whereon the three apartment buildings mentioned above were approved for construction, and, the two lots (the Property) made the subject of this report. He is supportive of their being developed as/for multiple-family structures just as he supports build-out of the lots he got approved for apartments – in other words all five (3 + 2) buildings – by the current owner of said lots.

At this juncture Staff should say that we determined after inquiry from a citizen that to build those three (3) eight-plexes approved in 2012 for construction requires the formality of application for another Conditional Use Permit (CUP) because the previously issued one has lapsed. Also, given that the lots in Fall River addressed as 940, 950 and 960 S. Rising Sun were sold by the original developer (Steve Cope) to the Applicant, and, the Applicant has a desire to modify the eight-plex designs already approved for those lots, another Development Agreement Modification application has been submitted to seek approval to modify the Ordinance (Ord. 4021) – in other words, an amendment to an amendment to the original Agreement has been filed for Commission and Council consideration. If approved that 2<sup>nd</sup> Modification would cure certain, questionably enforceable, restrictions in Ordinance 4020.

Associated with, but not coupled to nor dependent on the afore-noted 2<sup>nd</sup> Modification, is another Development Agreement Modification application that purposes amending the original Development Agreement (Ord. 3743) associated with the Fall River West Subdivision's commercial area) in order to propose the conversion of two lots in the Fall River West commercial area addressed as 920 and 930 S. Rising Sun Drive from being conceptually developed with office buildings to instead be developed with eight-plexes commensurate with, and comparable to, what was already approved for 940, 950 and 960 S. Rising Sun Drive some six (6) years ago.

The Applicant's representative for this matter has also penned a reasonably thorough narrative (attached hereafter) that also (from their perspective visits the history of the matters made the subject of this report in part of its composition.

This matter was set to be on the Commission's hearing docket and agenda on 27 March 2018. However, a recognition of the need to have the Applicant revise their application submittal to cause it to be more comprehensive, and, the unexpected lack of a Commission quorum both contributed to this matter being re-submitted and heard at a later date –April 24<sup>th</sup>.

The Planning and Zoning Commission, during their regularly scheduled public hearing of April 24, 2018, after reviewing the application package associated with this report, hearing a Staff report, and, receiving public testimony, voted to recommend denial of the requested Development Agreement Modifications. The Commission subsequently voted to deny the above captioned Conditional Use Permit requests.



Regular Council  
June 18, 2018

Following that hearing, the Applicant(s) filed an appeal on the CUP denials. A copy of that appeal is hereto attached along with materials already given to the Commission plus the hearing minutes from April 24, 2018.

### **Development Agreement Modification**

Criteria to guide the Council regarding whether to approve or deny [and on what basis] a/the proposed Development Agreement (DA) Modification(s), or, some (a) variation(s) of what the Applicant has proposed in the way of amendments are absent from state statute or City ordinance. Thus, approving -- or not -- Development Agreements (and proposed modifications/amendments thereto) becomes a purely subjective matter/decision on the part of the City in reaction to this DA contract modification application.

Hereafter attached is a copy of Ordinance 3743 (Instrument No. 20070075799) which has, as a part thereof, the Development Agreement imbedded therein and referenced by this report. The section of the Agreement proposed for modification is Exhibit B, the Concept Plan. The Applicant wishes to re-label two of the buildings depicted on the Plan to change their concept designation from "office" to "multiple-family". While the Agreement allows under the Agreement section for the [overall] Project (meaning all of Fall River West) to be developed only, as a minimum, in "substantial conformance" with the Concept Plan, given the controversial nature of the conversion in 2012 of three other lots south of those made the subject of this report, City legal counsel and Staff felt it best to require a Development Agreement Modification be processed in order to vet the request.

Further, attached hereto is a copy of rezone Ordinance 4020 (Instrument # 2012026030) and of Development Agreement Modification Ordinance 4021 (Instrument # 2012026031) which latter ordinance has already been noted as a/the [first] Modification to Ordinance 3743.

As the process amending a Development Agreement is a two-step endeavor, Staff will prepare a Development Agreement Modification document for Council's review prior to the 3<sup>rd</sup> reading of the ordinance that will/would enact the Development Agreement Modification if the request made the subject of this report is approved.

**Commentary:** An approved Development Agreement, associated with an approved conceptual master mixed-use commercial park development plan with associated building use type, and, building density projection is already assigned to the Property (Ord. # 3743). That entitlement runs [still] with the land.

The Development Agreement Modification (aka Amendment) package presently before the Council proposes two actions (howbeit they are under one application submittal umbrella). Each action may be independently reviewed and acted upon as neither is dependent on the other.

Regular Council  
June 18, 2018

As afore-noted, one action asks the City to approve amendment of a previously approved Development Agreement Modification in order to:

1. Authorize and recognize a change of ownership and build-out of Lots 20-22 of Block 1 (940, 950 & 960 S. Rising Sun Drive) as well as to allow for revised eight-plex building elevations.
2. Modify the original Development Agreement’s concept development plan of/for Fall River West’s “commercial marketplace” to allow for two (2) new eight-plexes to be constructed on two (2) lots that lie north of, and abutting to, Lots 20-22. That pair of eight-plexes are proposed to be of the same design as proposed for Lots 20-22 and to be built by the same [new] owner/developer (the Applicant).

The overall building footprint and provision of parking around the lots is not deemed necessary to substantially change in its conceptually perceived arrangement as it fits the current proposal for apartment buildings.

Any apartment buildings constructed on the properties made the subject of this report will be tasked with being accompanied by garages (unless approved otherwise by you, the Council) and the landscaping – especially, in heavily planted arrangements between the eight-plexes and the existing homes to their east in the residential portion of Fall River West.

The RP and BC Zones that overlay the lots under consideration accommodate the proposed Project, and, its density. The City’s Comprehensive Plan Future Land Use Map demarcates the Property and larger Fall River West development as being within a “Community Mixed Use” (CMU) “setting” [a term used by Staff to differentiate the Future Land Use Map’s sectors from the zoning ordinances “zones” or “districts”] bordering on a “Commercial” on the west and north and the “Medium Density Residential” (MDR) setting on the east and south. The CMU setting is outlined in the City’s adopted Comprehensive Plan (a guide) in the following way:

## **5.7 COMMERCIAL MIXED USE**

### **5.7.1 Community Mixed Use**

Community Mixed-Use districts are recommended locations for development of activity centers that are specifically planned to include commercial uses, would focus on more communitywide needs and services. These areas should be sited along major transportation corridors.

#### **5.7.1.1 Community Mixed Use Principles**

- a. Provide an interconnection circulation system that is convenient for automobiles, pedestrians and transit;
- b. Located on major transportation corridors;
- c. May include higher densities residential and;
- d. Landscape areas.

Regular Council  
June 18, 2018

The CMU setting assumes that higher density residential housing may be provided in its confines or area of effect. Accordingly, we find that the proposed DA Modification is, generally, supported by the Comprehensive Plan.

A word of constraint: The question of the propriety of the BC and RP Zones where assigned in the overall Fall River development, and, their attendant land use allowances (including residential densities) was already settled in 2007 and, in/for a limited area in the development, in 2012 when the City approved the BC and later the RP Zones' overlayment on a portion of the overall Fall River West development which caused the drafting of three (3) Ordinances and two (2) Development Agreements as previously noted in this report) followed by their approvals. Thus, in our opinion this application package should not be construed as a venue for re-opening the question of the correct zone(s) to be placed on the Property or on the balance of the Fall River West "Commercial Marketplace". To use a cliché, "that ship has already sailed". The application addressed by this report and now before City decision makers is simply the question of the change of three lots' builder/developer and apartment building design elevations, and, of two lots concept identifiers from "office" to "apartments" or similar label.

Whether to favor the new change(s), as contemplated by the application that engendered this report, and approve the same (or approved with some alterations to the application request) as already noted is a purely subjective decision for the Council to make. Should the Council allow the Development Agreement Modification applications as proposed or some variation of the same, Staff will, as said, at a given juncture craft a draft Development Agreement Modification document for the Council's review.

To reiterate: The Council has ultimate authority to approve or deny the Development Agreement Modification request as the duly authorized representatives for the City in matters such as that described in this document notwithstanding comments made by either the Applicant or those who, if any, who speak for or against the proposal.

### **Conditional Use Conclusions of Law**

Relevant **Conclusions of Law** (evaluation criteria) for a/this Conditional Use Permit hearing item:

- A. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Regular Council  
June 18, 2018

- B. That the location, design and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.
- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or, will provide an essential service to the community or region.

### **Conditional Use Commentary**

Cities and counties in this country have for the past 100 or so years adopted and then administered zoning laws. Such laws, colloquially termed “codes”, are designed, in part, to help ensure orderly community population and structural growth, predictability of development rules, the upholding of property values, protection of the public’s health, safety and welfare, fair regulation of land use, and so forth. The level of detail of any such code, and, its aptitude in balancing the vested rights of individual property owners with those of their neighbors, varies from jurisdiction to jurisdiction.

Idaho, in the 1970s, adopted a set of laws to generally govern land use and development in the state. Said laws are collectively titled the “Local Land Use Planning Act” (I.C. 67-6501 et al). At the time of adoption, it was provided that cities and counties could choose to enact their own set of zoning laws and empower planning and/or zoning commissions to make certain land use related decisions. Nampa adopted a zoning ordinance many years ago and both renewed and revamped its ordinance in 1971. Since that time, varying amendments to the same have been passed into law. Commensurate with other zoning ordinances, Nampa identifies a number of possible land use types and establishes the permissibility of those uses within given land use districts (zones) that overlay the community. Uses thus may be deemed as permitted/allowed by right, not allowed/prohibited, or, allowed upon issuance of a “Conditional Use Permit” (N.C.C. § 10-25).

Conditional (or “Special”) Use Permits (CUPs) are common implements used by zoning codes and authorities to facilitate review of a given (or proposed) land use in a proposed location to ascertain the use’s perceived [future] compatibility with neighboring land uses as considered from a variety of viewpoints and based upon a number of determined facts. Conditional Use Permits commonly invoke some form of formal review by a city or county, often requiring at least one public hearing. Nampa requires a public hearing to review those land uses that require Conditional Use approval (N.C.C. § 10-25-14).

A hearing allows vetting of any concerns of the public, the governing jurisdiction’s departments, or that of outside agencies. Such a hearing is used in part to discover land use related impacts that may stem from the proposed use and, if necessary, to levy any reasonable mitigations perceived necessary to keep the proposed use and the environment around in harmonious co-existence.

Regular Council  
June 18, 2018

Multiple-family (i.e., 5+ dwelling units in one building as defined by Nampa's adopted zoning ordinance) require a Conditional Use Permit (CUP) in order to be allowed to be developed in the Residential Professional (RP) and Community Business (BC) Zones.

Comes now the Applicant, having filed a Conditional Use Permit application set and the City having received the same and deemed it complete seeking, in essence, a re-instatement of a previously issued Conditional Use Permit for a trio of eight-unit multiple-family buildings to be built on the three lots within Fall River West in a RP Zone and for two more eight-unit apartment buildings not already once approved to be built on two adjoining lots to the other three also within Fall River West Subdivision. While the 2012 CUP for three grouped eight-plexes was approved, it was not made transferable to another owner of the Property; it "sunsetting" about a six (6) years ago because the proposed buildings were not constructed within six (6) months. A single one-year extension to that CUP was filed asking for that CUP's permission(s) to be extended in time. The extension request was approved. The building lots to which the CUP appertained were rezoned in conjunction with the CUP's issuance since, at that time, the City's BC Zone did not allow entertainment of multiple-family structures via the conditional use process. (Ordinance 4340 passed by Council on September 18, 2017 made allowance for the City to entertain "multiple-family dwellings" within our BC Zone).

As already noted before-hand, Fall River West's commercial mixed-use area is within a "Community Mixed Use" "setting" per the City's adopted Comprehensive Plan Future Land Use Map. The Applicant's proposed eight-plex structures natures are in care and keeping that Comprehensive Plan setting.

Given the prior approval of a CUP authorizing emplacement of three (3) eight-plexes on 940, 950 & 960 S. Rising Sun Drive, and that, while a contract not a zoning permit, we consider the CUP "re-upping" request to be, after a measure, arguably a formality in this case. The propriety of eight-plexes on 920 and 930 S. Rising Sun Drive is, on the other hand, we opine to be more of an open matter. Still, neighborhood conditions have changed but the Applicant has right to reasonable review and possible approval too.

As the Commission denied both CUP requests, the Applicant has submitted an appeal to the Council [again – copy hereto attached]. The appeal was received in due time by the City and was accepted at the front desk as being complete/in order.

### **Other/Miscellaneous**

**Utility and emergency Services:** Available to the Property.

**Public/Agency/City Department Comments:** Attached to this report is all of the relevant information and correspondence that Staff had appertaining to this application for submission to

Regular Council  
June 18, 2018

the Commission for review by the time this report was ready to go to print (5pm noon, 10 May 2018). Some commentary from concerned citizens has also been attached. The City's Engineering Division is not opposed to the DA Modification application nor are those the other agencies or City Departments/Divisions that have returned written comment (also hereto attached).

**Note:** Any relevant recommended requirements noted in the above agency/department correspondence will be hereafter manifest in the recommended Condition(s) of Approval presented by Staff in this report if any are suggested....

### **Recommended Condition(s) of Approval**

Should the City Council vote to approve the requested [either or both] of the Development Agreement Modification requests as desired by the Applicant(s), then Staff would recommend that the Council consider imposing the following Condition(s) of Approval against the requests/Applicant(s):

#### **As Pertaining to the Development Agreements' Modification Requests:**

1. That the Applicant, as Owner/Developer, [shall] enter into (a) Modified Development Agreement(s) with the City of Nampa. The Agreement(s) shall contain such conditions, terms, restrictions, representations, exhibits, acknowledgments and timelines as necessary to facilitate development of the Property as contemplated by the Applicant and agreed to and conditioned by the City through its Council or executive departments or outside agencies properly involved in the review of the Applicant's request for the Property's entitlement(s), including insertion of concept plans therein...

**As Pertaining to the Conditional Use Permit Re-Instatement Request:** N/A -- given existing site development controls and existing Development Agreement commitments

**As Pertaining to the New Conditional Use Permit Request:** N/A -- given existing site development controls

(Exception: Staff advocates that within either or both the DA Mods. and/or CUPs, a requirement for enhanced landscaping be imposed against the lots such that a thick screen of high growing shrubs and trees compatible with the space available for them to grow without having canopy spread over the intervening fence line between the apartments and single-family residences to the east in the balance of Fall River. We recommend that any such condition be reviewed by the City Forester.

Councilmembers asked staff questions.

Regular Council  
June 18, 2018

City Engineer Tom Points explained that the subdivision is not large enough to generate a traffic impact study. They do pave their way thru impact fees those fees are put into a bucket to be use throughout the city. Currently we do not have any projects in that area.

No one appeared in favor of the request.

Those appearing in opposition to the request were:

Name	Address	City	Spoke (Y/N)
Lori Sharrock	1279 S Spring Valley Dr	Nampa	Spoke
Alan Turner	1027 S Spring Valley Dr	Nampa	Against but didn't speak
Elean Turner	1027 S Spring Valley Dr	Nampa	Against but didn't speak
Rick Scott	1208 S Spring Valley Dr	Nampa	Spoke
Katherine Scott	1208 S Spring Valley Dr	Nampa	Against but didn't speak
Andrea Beebe	4299 Pershall Road	Marsing	Spoke
Jerry Hanni	1100 S Spring Valley Dr	Nampa	Spoke
Chriss Flynn	1015 S Spring Valley Dr	Nampa	Spoke
Rick Sharrock	1219 S Spring Valley Dr	Nampa	Against but didn't speak
Roerta Hutto	8076 Watercress Ave	Nampa	Against but didn't speak
Frank Stelman	924 S Spring Valley Dr	Nampa	Spoke
Jason Nichols	1003 S Spring Valley Dr	Nampa	Spoke
JoAnn Vasko	9125 Spring Valley Dr	Nampa	Spoke
Jim Roth	1101 S Spring Valley Dr	Nampa	Spoke
Linda Jennings	1101 S Spring Valley Dr	Nampa	Spoke
Jake Burley	1203 S Spring Valley Dr	Nampa	Spoke
Karen Buchholz	1207 S Spring Valley Dr	Nampa	Against but didn't speak
Cathy Hayton	1107 S Spring Valley Dr	Nampa	Against but didn't speak
Leonard Buchholtz	1207 S Spring Valley Dr	Nampa	Spoke
Stacy Saunders	1106 Spring Valley Dr	Nampa	Against but didn't speak
Marc Ikebason	1317 S Spring Valley Dr	Nampa	Against but didn't speak
Rick Reid	1215 S Spring Valley Dr	Nampa	Spoke
Maria Reid	1215 Spring Valley Dr	Nampa	Spoke
Holly Franklin	1414 S Millstream Ct	Nampa	Spoke
Lynsey Blast	1415 S Herron Dr	Nampa	Spoke

The applicant Kevin Amar presented a rebuttal to items that were brought up in public testimony.

Regular Council  
June 18, 2018

Council asked questions of the applicant and staff.

City Attorney Maren Erickson explained about the current development agreement is recorded against the land itself, the parties even though there is a new developer is still bound by the current development agreement that is recorded against the land, however the council has the ability as Robert has written in his staff report, outline pretty well to modify that contract because we are a party to that contract. We can make changes to that agreement as the council wishes to do.

Development agreement is a council decision that really doesn't have much to do with planning and zoning they can make recommendations, but the CUP does go through planning and zoning first then comes to council. So, you have to look at the two a little bit different.

Any contract that you would agree to both parties have to agree to amend or modify the agreement.

Mayor Kling asked the applicant questions.

Councilmembers asked questions of the applicant and staff.

**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 had discussion on the request.

Mayor Kling made comments on the request.

The applicant stated that the city is breaking the contract.

City Attorney Maren Ericson explained that would definitely be true had their not been a condition in the original contract tying it to the original developer. With that condition in the contract it ties that development to Steve Cope making that development. Had that condition not been in the contract then I think that is definitely true that we could be violating but because that is a term of the contract and Steve Cope is not the one developing then that condition kind of . . . .

Councilmembers asked the attorney questions concerning the previous developer.

Maren Ericson explained that would be a development agreement that we already have and has already been approved. That is in place and recorded against the land so that would be a development agreement that we would have to follow unless we agree with the two parties to change that contract.



Regular Council  
June 18, 2018

Councilmembers asked the attorney questions.

Maren Ericson explained that we have to follow the terms of the agreement, that is a two-party agreement so there are obligations on the developer and obligations on the part of the city. One of the obligations on the part of the developer in this particular development agreement was the understanding that Steve Cope would develop the land. Since that is an obligation of the contract and that is not being done. As long as the city is doing our obligation under the contract then there is no risk.

**MOVED** by Skaug and **SECONDED** by Rodriguez to **deny Modification** of [a First Modification] of the below-referenced **Annexation and Zoning Development Agreement** between SKC Inc. and the City of Nampa (Ord. no. 4020): Amending, as necessary Recitals; Agreement terms; and Exhibit “C” Conditions of Approval and Exhibits as necessary -- for three building lots addressed as **940, 950 & 960 S. Rising Sun Drive** comprising a total of 1.375 acres in a RP Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, Boise Meridian, Canyon County, Nampa and, Appeal of Planning and Zoning Commission Denial of **Conditional Use Permit** package (CUP 106-18) to re-instate an expired Conditional Use Permit for 8-plexes on Lots 20, 21, and 22, Block 1, Fall River West in an RP Zone; both requests submitted by Kent Brown representing Biltmore Company **AND Modification of Annexation and Zoning Development Agreement** between SKC Inc. and the City of Nampa (Ord. no. 3743): Amending Exhibit “B” Conceptual Plan to, as necessary, Recitals; and, add a new Conceptual Site Plan changing the use of a portion thereof from commercial to multiple-family residential; and, amending Exhibit “C” Conditions of Approval as necessary -- for two building lots addressed as **920 & 930 S. Rising Sun Drive** comprising a total of .868 acres or 37,810 sq. ft. in a BC Zone; and, Appeal of Planning and Zoning Commission Denial of **Conditional Use Permit** package (CUP 106-18) to seek approval of a Conditional Use Permit for 8-plexes on Lots 23 & 25, Block 1, Fall River West in a BC (Community Business) Zone; lots being in a portion of the NW ¼ of Section 32, T3N, R2W, BM; both requests submitted by Kent Brown representing Biltmore Company. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #20** - Mayor Kling presented the request to **authorize** the **Mayor** to **sign** a **Nampa Municipal Airport Taxilane Pavement Construction Agreement** for Taxilane C-4 extension with **Mad River, LLC**.

Michael Fuss presented a staff report explaining that on December 11, 2017, Mad River, LLC presented the Nampa Airport Commission with a plan to construct the taxilane pavement to the east of hangar lots 2018, 2020, 2022 and 2024 (Taxilane C-4).

Regular Council  
June 18, 2018

On March 12, 2018, Mad River, LLC submitted their building and drainage plans to the Commission.

- Mad River, LLC initially proposed constructing 120 feet of asphalt to Federal Aviation Administration (FAA) specifications. The remaining 120 feet would remain gravel until either the FAA funded pavement construction, or the City were to fund the additional pavement.
- The FAA has indicated if the proposed pavement is constructed to FAA specification the pavement would be eligible for potential future FAA grant funding for maintenance.
- The Commission directed staff to work with City legal counsel to draft a pavement construction agreement.

On April 9, 2018, Mad River, LLC amended their pavement construction proposal to include all 240 feet to meet FAA Specification.

The taxilane pavement construction agreement addresses the following: Scope of Work - all work will be in accordance with FAA Advisory Circular 150/5370-10G (Standards for Specifying Construction of Airports) and the project will not be eligible for federal funding reimbursement for the construction; performance bonds and insurance requirements; compliance with all laws; and default and termination.

On June 11, 2018, the Nampa Airport Commission moved to recommend that City Council authorize the Mayor to sign the Nampa Municipal Airport Taxilane Pavement Construction Agreement (see Attachment A) with Mad River, LLC effective June 18, 2018, for the extension of Taxilane C-4.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **authorize** the **Mayor** to sign **Nampa Municipal Airport Taxilane Pavement Construction Agreement** for Taxilane C-4 extension with **Mad River, LLC**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #21** - Mayor Kling presented the request to **authorize** the **Mayor** to **sign** a **Nampa Municipal Airport Land Lease Agreements**, and Memorandums of Lease for Recording with **Mad River, LLC** for Lots 2018, 2020, 2022, and 2024.

Michael Fuss presented a staff report explaining that in September 2015, Mad River, LLC (Tim and Julie Schelhorn) submitted a lease application/lot reservation and paid associated processing fees for lots 2018, 2020, 2022 and 2024 for new construction.

- In 2015 the east taxilane had not been constructed. The Nampa Airport Commission granted the Schelhorn's a reservation to build once the east pavement

Regular Council  
June 18, 2018

was installed, with the understanding if another party asked to build on the lots the Schelhorn's must begin building or give up the lots.

On December 11, 2017, Mad River, LLC presented the Commission with a plan to construct the taxilane pavement to the east of hangar lots 2018, 2020, 2022 and 2024.

- o The Commission granted a 90-day reservation extension.

On March 12, 2018, Mad River, LLC submitted their building and drainage plans to the Commission.

- o The Commission approved and stamped the building plans (this is required before the City of Nampa Building Department will accept airport building plans)
- o The Commission directed staff to work with City legal counsel to develop a pavement construction agreement for the construction of the taxilane.

On May 14, 2018, Julie Schelhorn returned signed Nampa Municipal Airport Land Lease Agreements, and signed and notarized Memorandums of Lease for Recording for hangar lots 2018, 2020, 2022 and 2024.

On May 14, 2018, the Nampa Airport Commission moved to recommend that City Council authorize the Mayor to sign the new Nampa Municipal Airport Land Lease Agreements (see Attachment A, B, C and D) and Memorandums of Lease for Recording (see Attachment E, F, G and H) with Mad River, LLC for Lots 2018, 2020, 2022 and 2024 respectively, effective June 19, 2018, contingent upon execution of Nampa Municipal Airport Taxilane Pavement Construction Agreement for the extension of Taxilane C-4.

**MOVED** by Bruner and **SECONDED** by Haverfield to **Authorize Mayor to sign Nampa Municipal Airport Land Lease Agreement** and Memorandum of Lease for Recording with **Mad River, LLC** effective June 19, 2018, for **Lot 2018**, and **Authorize Mayor to sign Nampa Municipal Airport Land Lease Agreement** and Memorandum of Lease for Recording with **Mad River, LLC** effective June 19, 2018, for **Lot 2020**, and **Authorize Mayor to sign Nampa Municipal Airport Land Lease Agreement** and Memorandum of Lease for Recording with **Mad River, LLC** effective June 19, 2018, for **Lot 2022**, and **Authorize Mayor to sign Nampa Municipal Airport Land Lease Agreement** and Memorandum of Lease for Recording with **Mad River, LLC** effective June 19, 2018, for **Lot 2024**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #22** - Mayor Kling presented the request to **CDBG Funding Decision for the remaining allocations**.

Regular Council  
June 18, 2018

Economic Development Assistant Director Robyn Sellers presented a staff report explaining that the City of Nampa receives Community Development Block Grant Fund every year from the federal government to be used for community development in our city, most specifically to develop and sustain resources that benefit low and moderate-income persons and to aid in the prevention or elimination of slums or blight.

Background: Fourteen applications were presented to the Council on June 11th at which time each applicant could present their project. The proposed projects are divided into three categories:

Administration/Planning, Public Services and Housing/Community Development.

Limits to allocation:

- Federal regulations mandate that we can allocate a maximum of 20% of our entitlement funds to Administration & Planning.
- Federal regulations mandate that we can allocate a maximum of 15% of our entitlement funds to Public Service.
- The Council adopted City of Nampa Application Guidelines for program year 2018 which states:
  - o No more than 4 Public Service sub recipients (non-city sponsored projects) would be funded; and
  - o If a funded public service applicant generates program income the city would limit the allocation to public service to 13%. This equates to: \$107,773.12 (13%) for public service projects or 15% (\$124,353.60)
    - After staff calculations of the submitted applications, staff recommends City Council motion to amend the guidelines to allow up to 14% (\$116,063.36) of the CDBG funds to be allocated to Public Service projects as the City would be within the regulations.

Federal regulations mandate the limit of funds EXPENDED within the downtown districts to no more than 30% over a cumulative three-year period. Program Year 2017 was the first year of the current 3-year period. At the end of September 2018, we anticipate expending \$246,247.80 for this current 3-year certification cycle on previously funded projects. There are no requests for funds within the downtown district in Program Year 2018.

**Application Changes since Submission** – None

**Recommendations for Funding for Program Year 2018:** Matrix 1 sums up the ranking of the projects from the review committee HUD has asked us to provide you with a funding recommendation and this has been included in Matrix 1. The total amount of funds available for all projects after Administration Set Aside is \$677,024.00.

Regular Council  
June 18, 2018

HUD Entitlement is:	\$ 829,024.00
Admin:	\$ 152,000.00
Total available for Projects (including PS):	\$ 677,024.00
PS Funding Recommendation at 14% Cap:	\$ 116,063.36
Total Available for Housing/Community Development Projects =	\$560,960.64

Administration & Planning: City Staff requested \$13,804.80 less than the maximum available for administration due to staffing changes and reorganization. This puts the administration & planning at 18% of the entitlement, keeping within the 20% max. cap.

Public Service: The Review Committee & CDBG staff recommends Council amend the Program Year 2018 guidelines to allow 14%. All options presented by the review committee identify Public Services projects to be funding with the 14% cap. As identified in the guidelines, CDBG staff recommends approving no more than 4 public service projects.

HUD regulations prohibit awarding funding to programs that are duplicating services. This program year we have four applicants who are duplicating services. CATCH of Canyon County and Salvation Army have both applied for funds for Rapid Rehousing programs. Jesse Tree and Advocates Against Family Violence have both applied for Rental Assistance.

CDBG staff completed a monitoring of Salvation Army's Rapid Rehousing program on May 29, 2018. Staff documented formal "findings" of non-compliance to CDBG rules and regulations. Per the 2018 application guidelines this makes Salvation Army's Rapid Rehousing program ineligible for funding. Staff recommends an allocation to Salvation Army with the specific use to be determined between City staff and Salvation Army with final City Council approval. Staff also recommends giving more funding to CATCH of Canyon County to help meet Rapid Rehousing needs in Nampa.

HUD identifies two conditions that need to be met to fund organizations that are duplicating services. The first is prove that there is a need for duplication and the second is that funds are being used for different functions of the project, i.e. staff time and program assistance. In the case of rental assistance funding for Jesse Tree and Advocates Against Family Violence is it difficult to document for HUD. Jesse Tree did not spend down all of their funds in PY2016 and in the current Program Year 2017 they have only spent 40% of their funding award with 3 months left in the award year cycle. Additionally, in the presentation by Advocates Against Family Violence they stated there is a Nampa resident waitlist for their services. Therefore, the recommendation is to give funds to Advocates Against Family Violence.

All public service projects are shown in the matrix 1 are based on their ranking order by the review committee.

Regular Council  
June 18, 2018

Housing/Community Development: All housing/community development projects are shown in the matrix based on their ranking order by the review committee.

At the Council Meeting on June 18th, you will be asked to allocate the funding for the 2018 program year and to prioritize funding for the reallocation of funds. A 30-day public comment period will follow starting on June 22th. The adoption of the Program Year 2018 CDBG Annual Action Plan will occur during a Public Hearing on August 6th.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **amend** the **program year 2018 guidelines** to state: if a public service application is funded that generates program income the city will limit the allocation to **public service to 14%** (116,063.36) and to amend the CDBG application guidelines stating the we are going to fund organizations that are not in good standing – if currently a city of Nampa CDBG recipient, **grantee must be in good standing or working with city staff to remediate, monitoring findings or concerns.**

Robyn Sellers explained about using the unused funds from previous programs that may be used to fund the Kings Road playground and Eastside and Roosevelt for park ADA sidewalk project.

Councilmember Levi asked questions about using the façade money for the Van England apartments.

Economic Development Director Beth Ineck gave an update on the Van England Apartments.

Councilmember Bruner asked about the amount for Family Justice Center.

**MOVED** by Rodriguez and **SECONDED** by Skaug to **allocate \$72,828** out of the \$128,000 remaining from unused funds from previous program years to fund the Kings Road Playground and fully fund the remainder of Eastside and Roosevelt for Park ADA sidewalk project. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **approve** the **total community/housing request** at \$633,789.00 and **CDBG Administration** of \$165,804.80 as presented. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**Item #23** - Mayor Kling presented the request to **authorize Police Department** to **apply** for **Grant to Fund an Additional Victim Witness Coordinator.**

Regular Council  
June 18, 2018

Captain Brad Daniels presented a staff report explaining that this solicitation seeks applications in two purpose areas.

- Purpose Area 1 - Law Enforcement-Based Direct Victim Services Program, and
- Purpose Area 2 - Law Enforcement-Based Direct Victim Services Technical Assistance Program

Eligible applicants for Purpose Area 1 (Law Enforcement-Based Direct Victim Services Program) are limited to public law enforcement agencies or federally recognized Indian tribal governments with arrest powers that perform law enforcement functions (as determined by the Secretary of the Interior) from small, mid-sized or large jurisdictions. Viable sites within the Public Safety Partnership, Project Safe Neighborhoods and Enhancing Law Enforcement Response to Victims (ELERV) are particularly invited to apply.

Eligible applicants for Purpose Area 2 (Law Enforcement-Based Direct Victim Services Technical Assistance Program) are limited to nonprofit organizations (including tribal nonprofit organizations); for-profit organizations; colleges or universities (including tribal institutions of higher education); and tribal governments, or tribal organizations. Applicants must have the staff resources and capability to develop or enhance a model for delivery of these technical assistance services. A nonprofit organization does not need to have 501 (c)(3) status to apply for grant funding under this solicitation. All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

OVC welcomes applications under which two or more entities would carry out the federal award; however, only one entity may be the applicant. Any others must be proposed as subrecipients (subgrantees).<sup>1</sup> The applicant must be the entity that would have primary responsibility for carrying out the award, including administering the funding and managing the entire program. Under this solicitation, only one application by any particular applicant entity will be considered. An entity may, however, be proposed as a subrecipient (subgrantee) in more than one application.

OVC may elect to fund applications submitted under this FY 2018 solicitation in future fiscal years, dependent on, among other considerations, the merit of the applications and on the availability of appropriations.

For information on eligibility, see "Section C. Eligibility Information."

### **Deadline**

Applicants must register with Grants.gov at <https://www.grants.gov/web/grants/register.html> prior to submitting an application. All applications are due by 11 :59 p.m. eastern time on July 2, 2018.

Regular Council  
June 18, 2018

To be considered timely, an application must be submitted by the application deadline using Grants.gov, and the applicant must have received a validation message from Grants.gov that indicates successful and timely submission. OJP urges applicants to submit applications at least 72 hours prior to the application due date, to allow time for the applicant to receive validation messages or rejection notifications from Grants.gov, and to correct in a timely fashion any problems that may have caused a rejection notification.

OJP encourages all applicants to read this Important Notice: Applying for Grants in Grants.gov. For additional information, see How To Apply in Section DD. Application and Submission Information.

### **Contact Information**

For technical assistance with submitting an application, contact the Grants.gov Customer Support Hotline at 800-518-4726, 606-545-5035, at <https://www.grants.gov/web/grants/support.html>, or at [support@grants.gov](mailto:support@grants.gov). The Grants.gov Support Hotline operates 24 hours a day, 7 days a week, except on federal holidays.

An applicant that experiences unforeseen Grants.gov technical issues beyond its control that prevent it from submitting its application by the deadline must email the OVC contact identified below within 24 hours after the application deadline to request approval to submit its application after the deadline. Additional information on reporting technical issues appears under "Experiencing Unforeseen Grants.gov Technical Issues" in the How To Apply section.

For assistance with any programmatic requirements of this solicitation, contact Laura Ivkovich, OVC Policy Analyst, by telephone at 202-616-3576, or by email at [Laura.Ivkovich@ojp.usdoj.gov](mailto:Laura.Ivkovich@ojp.usdoj.gov). For assistance with any other requirements of this solicitation, please contact OVC's National Criminal Justice Reference Service (NCJRS) Response Center: toll free at 800-851-3420; via TTY at 301-240-6310 (hearing impaired only); email to

**MOVED** by Skaug and **SECONDED** by Levi to **authorize the Police Department to apply for a grant to fund an additional victim witness coordinator**. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

**MOTION CARRIED**

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

**Update to 2018 Street Division Chip Sealing Campaign** – Major chip sealing in Zone C1 and Zone C2 is well underway. It is estimated that chip sealing is about 50% complete for the season.



Regular Council  
June 18, 2018

The following roads are complete: East Greenhurst Road from South Powerline Road to South Happy Valley Road; South Happy Valley Road from East Greenhurst Road to East Locust Lane; East Locust Lane from Southside Boulevard to Stoddard Pathway; Southside Boulevard from Alma Lane to East Amity Avenue/South Kings Road Overpass; Discovery Place from East Greenhurst Road to East Iowa Avenue; South Powerline Road from Crestview Avenue to Second Street South; East Iowa Avenue from South Powerline Road to South 26<sup>th</sup> Street; and Chicago Street from East Iowa Avenue to Second Street South. Estimated completion date for chip sealing is Thursday, June 21. Crews have begun sweeping excess chip and estimate cleanup to be finished by Thursday, June 28. Fog sealing will commence on Monday, July 9, in approximately the same order of Zones C1 and C2 chip sealing. Thermoplastic application and paint striping is estimated to be completed by Thursday, August 9. Staff provides daily updates to the City website for citizens to review and track the progress. As this campaign takes all Street staff and resources, requests will be delayed until after completion, apart from an emergency.

**Federal Grant Notification** - At the May 7, 2018, Council meeting, Public Works reported our notification for the following grants to be added to the draft State Transportation Improvement Program (STIP):

- Elijah Drain, Greenhurst Rebuild Project
  - Strategic Initiatives Grant, \$1,000,000
  - Ranked 5/41 Statewide, Construction FY18
- Cherry Lane Road Rebuild (Franklin Boulevard to 11<sup>th</sup> Avenue North)
  - Surface Transportation Grant, \$1,325,000
  - Design FY22, Construction in Preliminary Development
- Stoddard City Pathway (Iowa to Amity)
  - Transportation Alternative Grant, \$532,782
  - Design in FY20, Construction in FY21
- Stoddard City Pathway (Amity to Sherman)
  - Transportation Alternative Grant, \$539,066
  - Design in FY20, Construction in FY21
- Grimes Creek City Pathway (McDonagh Park to Sunset Park)
  - Surface Transportation Grant, \$318,000
  - Design FY22, Construction in Preliminary Development
- Grimes Creek Pathway (McDonagh Park to Birch Elementary School)
  - Transportation Alternative Grant, \$264,400
  - Design in FY19, Construction in FY20
- Greenhurst & Sunnyside Signalized Intersection
  - Local Highway Safety Improvement Program, \$1,100,000
  - Design FY20, Construction FY21

Since the report of May 7 to City Council, Public Works staff has also been notified of the following additional projects to add to the draft STIP:

Regular Council  
June 18, 2018

- Midland Rail Crossing Improvements
  - Railroad Safety Funds, \$50,000
  - Design and Construction in FY19
- Karcher and Franklin Roundabout
  - Freight Funds, \$1,500,000
  - Construction in FY22
- Franklin, Industrial and 3<sup>rd</sup> Avenue North Realignment
  - Freight Funds, \$5,200,000
  - Construction in FY22

The total value of projects is nearly \$12 million between FY18 to FY22. All of the FY19 to FY22 grant projects are pending final approval in September from the Idaho Transportation Department Board.

The freight grants are on the current impact fee capital improvement projects list, and impact fees can be used toward the grant match. The following grant match are covered by the impact fee:

- Karcher and Franklin Roundabout
  - 50% match covered by impact fee and 50% by streets funds
- Franklin, Industrial and 3<sup>rd</sup> Avenue North Realignment
  - 100% of match covered by impact fee

### **Transportation Funding -**

- Engineering Division staff have been working on a transportation funding plan that could fund congestion, safety, bike and pedestrian improvements to the goal of \$20 million per year. The plan outlines a path to obtain the funding goal within 10 years. The funding plan will be presented at the Transportation Master Plan (TMP) Community Workshop No. 3. The plan will outlay the potential use of impact fees, franchise fees and grants
- The \$20 million per year is needed to maintain a Level of Service D over the next 20 years per the initial findings of the draft TMP
- Nampa has had many years of success obtaining grants. The average awarded grants towards transportation in safety, congestion and bike and pedestrian improvements is about \$3 million per year with a City match of 7 cents on the dollar
- However, there is not enough funding in the overall grant programs to fund Nampa's goal of \$20 million per year
- The table in Exhibit A outlines all the grant options available for transportation. Statewide, the local funding for grants is approximately \$18 million for safety and congestion, and \$4.5 million for bike and pedestrian improvements per year

Regular Council  
June 18, 2018

- All the grants are competitive and there is no guarantee that Nampa's nominations will be funded
- Further limitations on the grants is that they are for very specific categories of improvements. The categories are freight, safety, rail crossing, and bike and pedestrian facilities
- Grants awarded today generally are not constructed for five years into the future which further limits how transportation improvements can support current growth trends
- The funding plan presented at the next TMP Community Workshop still accounts for grants but provides an avenue to fund projects sooner and accommodate current growth trends
- Currently, Nampa collects approximately \$600,000 per year towards transportation improvements through impact fees
- At \$600,000 per year it takes nearly three years of fees collected to fund one traffic signal or roundabout if only impact dollars are used on the project
- To maximize the use of the current impact fees and to take advantage of the available grants, Engineering staff updated the Nampa Impact Fee Capital Improvement Plan (CIP) in the fall of 2017 to use impact fees toward grant match
- The change did not increase the overall fee and because of this no ordinance change was needed. The revised CIP was accepted by the Nampa Impact Fee Advisory Committee (Committee)
- The change in impact fee strategy allowed the CIP list to be expanded from a value of \$15 million to \$30 million over the same time period. The Nampa Impact Fee CIP and presentation for the Committee are provided as Exhibit B
- The grants and recent changes to the Nampa Impact Fee CIP are an interim measure to maximum current funding. A longer term, more sustainable plan will be presented at the TMP Community Workshop No. 3

**Item #14** – Staff Report – Finance Director Vikki Chandler gave the following update on the Tyler Project:

- June 4 was go LIVE date in Tyler after about a year and half of planning.
- Tyler expert came to the City for 3 weeks to help with the go LIVE.
- Project was successful. Bills are getting paid, people are putting in requisitions, approvers are approving things everything is working.

Regular Council  
June 18, 2018

- Tyler is working slowly at first.
- A successful implementation.
- End users are excited to be using Tyler.
- The team is tired.
- We will be upgrading to a new version.
- Implementation of HR is next.

**Item #15** – The following Ordinance was read by title:

AN ORDINANCE DETERMINING THAT CERTAIN LANDS, COMMONLY KNOWN AS **908 W. KARCHER ROAD**, COMPRISING APPROXIMATELY 4.88 ACRES, MORE OR LESS, LAY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO, AND THAT SAID LANDS SHOULD BE ANNEXED INTO THE CITY OF NAMPA, IDAHO, AS PART OF THE IL (LIGHT INDUSTRIAL) ZONE; DECLARING SAID LANDS BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW TO BE A PART OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER AND PLANNING AND ZONING DIRECTOR TO ADD SAID PROPERTY TO THE OFFICIAL MAPS OF THE CITY OF NAMPA, IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND, DIRECTING THE CLERK OF THE CITY OF NAMPA TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREA TO BE ANNEXED WITH CANYON COUNTY, STATE OF IDAHO AND THE IDAHO STATE TAX COMMISSION, PURSUANT TO IDAHO CODE, SECTION 63-215. (Applicant Civil Site Works Representing Charles and Carmela Ham) **(PH was 3-19-2018)**

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Haverfield and **SECONDED** by Levi to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4381** and directed the Clerk to record it as required.

**MOTION CARRIED**

**Item #16** – The following Ordinance was read by title:

AN ORDINANCE OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO, VACATING A PORTION OF THAT CERTAIN FORTY (40') FOOT **RIGHT-OF-WAY** RUNNING SOUTH 628.62 FEET FROM **WAGON ROAD** ALONG THE EASTERN BOUNDARY OF THE

Regular Council  
June 18, 2018

PARCEL CURRENTLY IDENTIFIED AS CANYON COUNTY PARCEL R24705000 AND VACATING A PORTION OF THE WESTERLY ONE HUNDRED TEN (110) FEET OF THAT CERTAIN FORTY (40') FOOT RIGHT OF WAY TRAVERSING SAID PARCEL IN LINE WITH WAGON ROAD IN NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER TO ALTER THE USE AND AREA MAP ACCORDINGLY; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF IN CONFLICT HEREWITH. (Applicant Matt Schultz of Schultz Development, Representing Rocky Mountain District Christian Missionary Alliance) (PH was 4-2-2018)

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Haverfield and **SECONDED** by Rodriguez to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4382** and directed the Clerk to record it as required.

MOTION CARRIED

**Item #17** – The following Ordinance was read by title:

AN ORDINANCE DETERMINING THAT CERTAIN LANDS, LYING AT THE NORTHWEST CORNER OF THE INTERSECTION OF **VENTURA DRIVE** AND **GREENHURST ROAD**, COMPRISING APPROXIMATELY 0.413 ACRES, MORE OR LESS, LAY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO, AND THAT SAID LANDS SHOULD BE ANNEXED INTO THE CITY OF NAMPA, IDAHO, AS PART OF THE **RS 7** (SINGLE FAMILY RESIDENTIAL – WITH A "REQUIRED PROPERTY AREA" OF AT LEAST 7,000 SQUARE FEET) ZONE; DECLARING SAID LANDS BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW TO BE A PART OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER AND PLANNING AND ZONING DIRECTOR TO ADD SAID PROPERTY TO THE OFFICIAL MAPS OF THE CITY OF NAMPA, IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND, DIRECTING THE CLERK OF THE CITY OF NAMPA TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREA TO BE ANNEXED WITH CANYON COUNTY, STATE OF IDAHO AND THE IDAHO STATE TAX COMMISSION, PURSUANT TO IDAHO CODE, SECTION 63-215. (Applicant Mihaela Teodorescu) (PH was 5-7-2018)

The Mayor declared this the first reading of the Ordinance.

Regular Council  
June 18, 2018

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

**MOVED** by Haverfield and **SECONDED** by Bruner to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the ordinance duly passed, numbered it **4383** and directed the Clerk to record it as required.

MOTION CARRIED

**Pending Ordinances (Postponed Due to Lack of Supporting Documentation)**

- a) Resolution for a Comprehensive Plan Future Land Use Map Amendment from Light Industrial to High Density Residential at 1010 Southside Blvd. for Mason and Associates Representing Mark Sparrow (PH was 4-16-2018)
- b) 1st Reading of Ordinance for Annexation and Zoning to RML at 1010 Southside Blvd. for Mason and Associates Representing Mark Sparrow (PH was 4-16-2018)
- c) 1st Reading of Ordinance for Modification of Zoning Development Agreement Between Eldorado Development, Inc. and the City of Nampa Recorded 3/9/2006 as Inst. No. 200616758 Changing the Concept Plan and Approval Conditions for a Revised Fourplex Development, at 2507 Sunny Ridge Rd for JUB Engineers Representing TG Development, LLC (PH was 5-21-2018)
- d) 1st Reading of Ordinance for Annexation and Zoning to IL at 9546 Cherry Lane for Daniel French (PH was 5-21-2018)
- e) 1st Reading of Ordinance for Annexation and Zoning to RA for Connection to City Sewer at 8250 Cherry Lane for Boone Seal (PH was 5-21-2018)
- f) 1st Reading of Ordinance for Annexation and Zoning to RS6 on the South Side of Lone Star Rd. Between 2201 and 2117 Lone Star Rd. for JUB Engineers Representing Trilogy Development (PH was 6-4-2018)
- g) 1st Reading of Ordinance for Annexation Zoning Map Amendment from RS 6 to RD at 935 Sunny Lane for Arnold and Sondra Shryock (PH was 6-4-2018)
- h) 1st Reading of Ordinance for Annexation and Zoning to IL for Industrial Development at 0, 16764, and 16914 Northside Blvd., and 8707 Cherry Lane for Kent Brown representing Volante Investments LLLP (PH was 6-4-2018)
- i) 1st Reading of Ordinance for Annexation and Zoning to BC for 10.72 acres and to RP 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 for Jeffrey H. Bernson representing Derk Pardoe, CIF Enterprises, LLC (PH was 6-4-2018)
- j) Resolution for Comprehensive Plan Future Land Use Map Amendment from Light Industrial and Business Park to Community Mixed Use for 76.78 acres for Jeffrey H. Bernson representing Derk Pardoe, CIF Enterprises, LLC (PH was 6-4-2018)

Regular Council  
June 18, 2018

**Item #18** - Mayor Kling presented the request to **authorize staff to proceed with demolishing the elevated water tank.**

Assistant City Engineer Jeff Barnes presented a staff report explaining that the elevated 500,000-gallon water storage tank at 11<sup>th</sup> Avenue North and I-84 is nearing the end of its useful life. In addition, the City needs 1 million gallons of additional water storage to meet future needs.

Additional water storage provides economic opportunity and allows for the City to grow. Also, the storage provides public safety by providing fire flow and clean drinking water.

The City of Nampa contracted with Keller Associates, Inc. to evaluate alternatives for the existing tank as well as for siting a new storage reservoir which has been identified as a priority improvement in the City's Water Master Plan.

Alternatives for the elevated tank include the following:

- Demolition—The lowest life-cycle cost alternative for meeting the storage needs of the City involves abandoning the existing elevated water tank and building a 1.5M gallon tank in its place.
- Rehabilitation—This is the highest cost alternative considering the tank needs significant maintenance and seismic improvements. It's 500,000 gallons of storage does not meet future City needs and requires the construction of an additional 1M gallon tank at an alternate location.
- Abandon in Place—The tank would be repaired and repainted but not used for water storage. Seismic upgrades would be required.

To address the additional water storage needs, four alternative tank sites were evaluated: (1) the existing elevated tank site (requires demolition of the existing elevated tank), (2) a site near St. Als hospital (Well 12), (3) a site at the The Ford Idaho Center, and (4) a site near the Industrial area in North Nampa (See Vicinity Map Exhibit A)

Computer modeling and cost estimating of each alternative was completed for each site. Additionally, benefits and drawbacks for each alternative were evaluated and a decision matrix was developed to rate each alternative.

The best alternative site for the new 1.5-million-gallon water tank is at the existing elevated water tank site. The City owns the existing tank property, it has immediate access to both the low and high-pressure zones and is adjacent to a water source, Well 8 (See Exhibit B).

Alternative tank materials (steel, concrete) were evaluated. Based on the life-cycle analysis, a prestressed concrete tank is recommended.

Regular Council  
June 18, 2018

Engineering recommends proceeding with the design to demolish the existing elevated tank, replacing it with a 1.5-million-gallon tank at the same location.

**MOVED** by Bruner and **SECONDED** by Skaug to **authorize staff to proceed with plans to demolish the existing water elevated tank and replacing it with a 1.5-million-gallon pre-stressed concrete tank at the same location.**

Mayor Kling addressed the council and explained that she had been approached about the water tank being a city icon and that maybe it should be left there.

Councilmember Levi asked questions of staff.

Councilmember Bruner withdrew his motion and so did Councilmember Skaug for the second.

**MOVED** by Bruner and **SECONDED** by Rodriguez to **table the motion until the first meeting in August.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES.** The Mayor declared the

MOTION CARRIED

**Item # - Mayor Kling presented the request to **appointment of one member of the City Council to Serve on the M.A.P. Fund Committee.****

Assistant Fire Chief Richard Davies presented a staff report explaining that the Board Member Number, Tenure and Qualifications: There is hereby created a Board of Trustees, which shall be known as the “Major Acquisitions Plan Fund Board of Trustees” and/or “M.A.P. Fund Board of Trustees” and which Board of Trustees shall have the general authority set forth in Sections 6 through 13 of this Agreement Fund and all other duties and responsibilities as are set forth in this Agreement Fund and which Board of Trustees also serves as the Nampa Contract Services Fee Committee pursuant to the terms of the Service Agreement.

Board of Trustees Number and Appointment: There shall initially be two (2) members of the Board of Trustees of which there shall be one (1) who is a commissioner of the Nampa Fire District appointed by the Board of Commissioners and one (1) who is a city council member of Nampa appointed by the City Council.

Alternates: Each Party’s governing board should also appoint two (2) alternates designated first and second alternate each of whom must be an elected member of the governing board of the designating Party] for its designated Board of Trustee member, either of whom may vote only in the absence of the designated member.



Regular Council  
June 18, 2018

**Annual Meeting:** The annual meeting of the Board of Trustees shall be held on the second Monday in May of each year, at the hour of 1:30 p.m., or at such other time on such other day within such month as shall be fixed by the Board of Trustees, for the purpose of reviewing the initial draft of the proposed budget as provided in Section 8 of this Agreement and for election of officers as provided in Section 6 of this Agreement and for the transaction of such other business of the Fund as may come before the Board of Trustees at this meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Idaho, such meeting shall be held on the first following business day.

**Special Meetings:** Special meetings of the Board of Trustees, for any purpose or purposes related to the powers provided in this Agreement, may be called by the Chairman or by any of the Trustees.

**Place of Meeting:** The Board of Trustees may designate any place, either within or without the territorial boundaries of any Party to this Agreement, as the place of meeting for any annual, regular, special and/or budget meeting and/or for any other meeting called by the Board of Trustees.

**Notice of Meeting:** Written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be made in accordance with the then existing Open Meeting Laws of the State of Idaho with a copy thereof to all Trustees and Alternates unless an emergency is the basis of the call of the meeting.

**Quorum:** Two members (or their serving Alternates) of the Board of Trustees shall constitute a quorum at any meeting of Board of Trustees.

**Voting:** Each Trustee (or serving Alternate) is entitled to one vote upon each matter submitted to a vote at a meeting of Board of Trustees, and a unanimous vote is needed to carry each matter submitted to a vote.

**Vacancies:** Any vacancy occurring in the Board of Trustees (or Alternate) shall be filled by the Party designating the Board member (or Alternate).

**MOVED** by Levi and **SECONDED** by Rodriguez to **appoint Councilmember Rick Hogaboam to Serve on the M.A.P. Fund Committee.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES.** The Mayor declared the  
MOTION CARRIED

**Item #24 - Mayors comments:**

- June 15 EPA Announcement
- Valley Regional Transit (VRT) increase for the July 2, 2018 Council meeting

Regular Council  
June 18, 2018

- Ron Harriman – Special Presentation for the July 2, 2018 Council meeting

**Item #25** – Councils comments

- No comments were made

**Item #26** - Mayor Kling presented the request to Adjourn into Executive Session Pursuant to Idaho Code 74-206 (1) (j) To consider labor contract matters authorized under section 67-2345A [74-206A](1)(a) and (b), Idaho Code (Mayor) and

**Item #27** - Mayor Kling presented the request to Adjourn into Executive Session Pursuant to Idaho Code 74-206 (1) (c) To acquire an interest in real property which is not owned by a public agency; (Mayor) and

**Item 28#** - Mayor Kling presented the request to Adjourn into Executive Session Pursuant to Idaho Code 74-206 (1) (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations; (Beth Ineck)

**MOVED** by Rodriguez and **SECONDED** by Bruner to adjourn into executive session at 10:35 p.m. pursuant to Idaho Code 74-206 (1) (j) To consider labor contract matters authorized under section 67-2345A [74-206A](1)(a) and (b), and 74-206 (1) (c) To acquire an interest in real property which is not owned by a public agency and 74-206 (1) (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**MOVED** by Bruner and **SECONDED** by Rodriguez to **conclude the executive session at 12:33 a.m.** during which discussion was held regarding (j) To consider labor contract matters authorized under section 67-2345A [74-206A](1)(a) and (b), and 74-206 (1) (c) To acquire an interest in real property which is not owned by a public agency and 74-206 (1) (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

**MOVED** by Bruner and **SECONDED** by Rodriguez to **adjourn the meeting** at 10:34 a.m. The Mayor declared the

MOTION CARRIED

Regular Council  
June 18, 2018

Passed this 2nd day of July 2018.

---

MAYOR

ATTEST:

---

CITY CLERK