

COUNCIL MEMBERS:

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>			<i>Mayor</i>			



AGENDA
 Meeting of the Twin Falls City Council
Monday, February 4, 2013
 City Council Chambers
 305 3rd Avenue East - Twin Falls, Idaho

5:00 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG
 CONFIRMATION OF QUORUM
 INTRODUCTION OF STAFF
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:
PROCLAMATIONS:

AGENDA ITEMS	Purpose	By:
I. <u>CONSENT CALENDAR:</u>	<u>Action</u>	<u>Staff Report</u>
1. Consideration of a request to approve the accounts payable for January 29 – February 4, 2013.		Sharon Bryan
2. Consideration of a request to approve the January 14, 2013, Amended City Council Minutes.		Leila A. Sanchez
II. <u>ITEMS FOR CONSIDERATION:</u>		
1. Consideration of a request for Chief Brian Pike to formally “promote” Sergeant Justin Dimond; and a request that Mayor Greg Lanting administer the Oath of Office to Bradley Baisch, the Police Department’s newest Police Officer.	Action	Chief Brian Pike/ Mayor Greg Lanting
2. Consideration of a request to reconsider conditions placed on an amendment to the WS&V PRO PUD Agreement by the City Council on October 22, 2012.	Action	Renee Carraway
3. Consideration of a request to reappoint James Ray, Scott Standley, and Jay Reis to the Building Inspection Department Advisory Committee, for terms to expire March 2016.	Action	Mitch Humble
4. Presentation by Elisha Figueroa from the Idaho Office of Drug Policy.	Presentation	Elisha Figueroa
5. Presentation of the City Pool Financial Report by Gary Ettenger, CEO of the YMCA.	Presentation	Gary Ettenger
6. Consideration of a request by James Ray on behalf of Jon Davis to waive the non-conforming building expansion permit process for an expansion to property located at 819 Canyon Rim Road.	Action	Renee Carraway
7. Public input and/or items from the City Manager and City Council.		
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> 6:00 - None		
V. <u>ADJOURNMENT:</u>		

**Any person(s) needing special accommodations to participate in the above noticed meeting should contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting.*

Twin Falls City Council-Public Hearing Procedures for Zoning Requests

1. Prior to opening the first Public Hearing of the session, the Mayor shall review the public hearing procedures.
 2. Individuals wishing to testify or speak before the City Council shall wait to be recognized by the Mayor, approach the microphone/podium, state their name and address, then proceed with their comments. Following their statements, they shall write their name and address on the record sheet(s) provided by the City Clerk. The City Clerk shall make an audio recording of the Public Hearing.
 3. The Applicant, or the spokesperson for the Applicant, will make a presentation on the application/request (request). No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing. The presentation should include the following:
 - A complete explanation and description of the request.
 - Why the request is being made.
 - Location of the Property.
 - Impacts on the surrounding properties and efforts to mitigate those impacts.Applicant is limited to 15 minutes, unless a written request for additional time is received, at least 72 hours prior to the hearing, and granted by the Mayor.
 4. A City Staff Report shall summarize the application and history of the request.
 - The City Council may ask questions of staff or the applicant pertaining to the request.
 5. The general public will then be given the opportunity to provide their testimony regarding the request. The Mayor may limit public testimony to no less than two minutes per person.
 - Five or more individuals, having received personal public notice of the application under consideration, may select by written petition, a spokesperson. The written petition must be received at least 72 hours prior to the hearing and must be granted by the mayor. The spokesperson shall be limited to 15 minutes.
 - Written comments, including e-mail, shall be either read into the record or displayed to the public on the overhead projector.
 - Following the Public Testimony, the applicant is permitted five (5) minutes to respond to Public Testimony.
 6. Following the Public Testimony and Applicant's response, the hearing shall continue. The City Council, as recognized by the Mayor, shall be allowed to question the Applicant, Staff or anyone who has testified. The Mayor may again establish time limits.
 7. The Mayor shall close the Public Hearing. The City Council shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed. Legal or procedural questions may be directed to the City Attorney.
- * Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and, thereafter removed from the room by order of the Mayor.

COUNCIL MEMBERS:

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>			<i>Mayor</i>			



AMENDED MINUTES
 Meeting of the Twin Falls City Council
January 14, 2013
 City Council Chambers
 305 3rd Avenue East - Twin Falls, Idaho

5:00 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG
 CONFIRMATION OF QUORUM
 INTRODUCTION OF STAFF
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:
 PROCLAMATIONS:

AGENDA ITEMS	Purpose	By:
I. <u>CONSENT CALENDAR:</u> 1. Consideration of a request to approve the accounts payable for January 8 – 14, 2013. 2. Consideration of a request to approve the January 7, 2013, Minutes. 3. Consideration of a request to approve Findings of Fact, Conclusions of Law, and Decision: a) Final Plat for Eastland Heights Amended Subdivision. b) Conveyance Plat for John Reeder Conveyance Plat.	<u>Action</u>	<u>Staff Report</u> Sharon Bryan L. Sanchez Mitch Humble
II. <u>ITEMS FOR CONSIDERATION:</u> 1. Consideration and adoption of Ordinance 3046, an Ordinance of the City Council for the dissolution of the Citizen Finance and Planning Commission. 2. Consideration of a request to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017. 3. SECOND READING: Consideration of a request to adopt Ordinance 3044, for a Zoning Title Amendment which would amend Twin Falls City Code 10-7-14 by allowing limited outside display of merchandise for sale subject to conditions. 4. Consideration of a request to approve to modify the traffic pattern on 4th Avenue North, from Shoshone Street to Fairfield Street North, to one-way in the northwesterly direction. 5. Discussion and possible action on staff's research on anti-discrimination policies. 6. Consideration and adoption of Ordinance Number 3045, an Ordinance of the City Council providing for the sale and issuance of bonds for the modified local improvement district (LID) number 2012-1 as requested by petition by Chobani. 7. Public input and/or items from the City Manager and City Council.	Action Action Action Action Discussion/ Possible Action Action	Lorie Race Susan Ash Mitch Humble Jacqueline Fields Mike Williams Travis Rothweiler
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> 6:00 – None.		
V. <u>ADJOURNMENT:</u>		

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Present: Shawn Barigar, Don Hall, Suzanne Hawkins, Jim Munn, Greg Lanting, Rebecca Mills Sojka, Chris Talkington

Absent: None

Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Chief Finance Officer Lorie Race, Community Development Director Mitch Humble, City Engineer Jacqueline Fields, Human Resource Director Susan Harris, Library Director Susan Ash, Assistant to the City Engineer Mike Williams, PIO Josh Palmer, Deputy City Clerk/Recording Secretary Leila A. Sanchez.

Mayor Lanting called the meeting to order at 5:00 P.M. He then invited all present, who wished to, to recite the pledge of Allegiance to the Flag with him. Mayor Lanting introduced staff. A quorum is present.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None
PROCLAMATIONS: None

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of a request to approve the accounts payable for January 8 – 14, 2013, total: \$368,493.60
January 4, 2013, Payroll, total: \$118,684.09
2. Consideration of a request to approve the January 7, 2013, Minutes.
3. Consideration of a request to approve Findings of Fact, Conclusions of Law, and Decision:
 - a) Final Plat for Eastland Heights Amended Subdivision.
 - b) Conveyance Plat for John Reeder Conveyance Plat.

MOTION:

Councilperson Munn made a motion to approve the Consent Calendar as presented. The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion. Councilperson Talkington abstained from voting because he was not present at the January 7, 2013, City Council Meeting. Approved 6 to 0.

II. ITEMS FOR CONSIDERATION:

1. Consideration and adoption of Ordinance 3046, an Ordinance of the City Council for the dissolution of the Citizen Finance and Planning Commission.

Chief Finance Officer Race explained the request.

The Citizen Finance and Planning Commission was formed by ordinance in July of 2010. Five citizens were appointed and the Commission has been meeting on a monthly basis since that time. They have regularly reviewed the City's financial dashboards and participated in various projects. During the latter part of 2012, the Commission began to question whether their original goals, as outlined in the original ordinance, had been met, and whether or not they should continue meeting or disband.

After discussion regarding their original goals and mission, the current chairman, Darrell Buffaloe made the recommendation the Commission disband. The motion was made and approved by the members.

Staff recommends City Council honor the wishes of the Commission and approves the dissolution of the Citizen Finance and Planning Commission.

Darrell Buffaloe explained that he believes the Commission has served its purpose.

The Council expressed appreciation to those who served on the Commission.

MOTION:

Vice Mayor Hall made a motion suspend the rules and place Ordinance 3046, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, REPEALING CHAPTER 2 OF TITLE 2 OF THE TWIN FALLS CITY CODE, PROVIDING FOR A CITIZEN FINANCE AND PLANNING COMMISSION

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

on third and final reading by title only. The motion was seconded by Councilperson Talkington and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Councilperson Mills Sojka made a motion to adopt Ordinance 3046. The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

2. Consideration of a request to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017.

Library Director Ash explained the request.

The Board of Trustees recommends to the Council the appointment of Margaret Peck.

Council discussion followed.

-Advertisement of Library Trustee

Library Director Ash stated that the position was posted on the library website and newspaper.

Margaret Peck stated she is impressed with the new ideas and projects at the Library.

MOTION:

Councilperson Talkington made the motion to appoint Margaret Peck to serve as a Library Trustee for a full-term of office from January 2013 through December 2017. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Susan Ash gave an update on the Lecture Series held every third Wednesday of the month, the mobile compact shelving, and bookmobile.

3. **SECOND READING:** Consideration of a request to adopt Ordinance 3044, for a Zoning Title Amendment which would amend Twin Falls City Code 10-7-14 by allowing limited outside display of merchandise for sale subject to conditions.

Community Development Director Humble explained the request. A public hearing was held on January 7, 2013, with no public input.

Council discussion followed.

Community Development Director Humble explained that a parking lot sale permit shall be issued for not more than five consecutive days. Parking lot sale permits issued in different calendar year quarters shall have a minimum of seven days between permits. He made the clarification that an applicant may have two five day permits one after another with a seven day down time period between the two (2) five day permits in a quarter.

Mayor Lanting opened and closed the meeting for public comment with no input.

Councilperson Hawkins stated that at the November 27, 2012, Planning & Zoning Commission Meeting, the one business owner who attended the public hearing spoke in favor of the request. No one spoke against the request.

MOTION:

Vice Mayor Hall made the motion to suspend the rules and place Ordinance 3044, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE §10-7-14 BY PERMITTING PARKING LOT SALES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, THAT TWIN FALLS CITY CODE §10-7-14 IS AMENDED AS FOLLOWS:

on third and final reading by title only. The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Vice Mayor Hall made the motion to adopt Ordinance 3044. The motion was seconded by Councilperson Talkington.

Council discussion followed.

Councilperson Barigar stated that on January 7, 2013, he voted against placing the ordinance on third and final reading, to give the request additional consideration and to receive input from the public. He spoke with a handful of business owners and some business owners were not aware that parking lot sales are not permitted. He appreciates the goal is to attempt to regulate what might be perceived as clutter in the community, but found it somewhat ironic in the fact that in order to allow more freedom and free enterprise for businesses, more regulation, laws and enforcement are created. He stated that after the ordinance has been in place for a period of time, consideration may be made to get rid of the parking lot sales permit not being allowed and allowing it.

Mayor Lanting allowed Rob Greenwood and Wade Pettingale to speak at this time.

Rob Greenwood, Sawtooth Vacuum, 329 Addison Ave W., explained the benefits of displaying vacuums outside his business to promote business and pay taxes. He stated his concern of allowing parking lot sales only ten days a quarter.

Wade Pettingale, Sawtooth Vacuum, 329 Addison Avenue W., explained his concern of limiting displaying products and falling within the guidelines will be difficult.

Council discussion followed.

Councilperson Mills Sojka stated that she is for less regulation as opposed to more. She stated her concern that the City, as a government and whose purpose is to protect and make sure there is public safety, is requesting to regulate when and how business owners sell and display their inventory on their own property. She stated that she would be in support of deleting the proposed section.

Vice Mayor Hall expressed that he does not believe it is regulating but liberating by an attempt to open up to businesses to make them more successful. The City Council will have an opportunity review parking lot sales in the future.

Councilperson Hawkins stated she is in support of the ordinance which is giving opportunities to small businesses; and, if this is to be reviewed in the future she would suggest splitting it into single business properties and shared business properties.

Roll call vote showed all members present voted in favor of the motion.

4. Consideration of a request to approve to modify the traffic pattern on 4th Avenue North, from Shoshone Street to Fairfield Street North, to one-way in the northwesterly direction.

City Manager Rothweiler stated that at 3:30 P.M, he received a call from Commissioner Mills, who made the clarification that the County is in support of the one way on one block of 4th Avenue North. Commissioner Mills spoke with Gerald Martens and Alan Horner prior to the City Council meeting.

City Engineer Fields stated that Alan Horner of First Federal, and Gerald Martens of EHM Engineers, will explain the request

Alan Horner, First Federal Bank, stated that the presentation made to the County Commissioners was for the first block of 4th Avenue North and after the meeting with Commissioners, he and Gerald Martens met with City Engineer Fields where discussion was made on making both blocks a one way. He stated that he failed to go back to the Commissioners to inform them that the one way would also include the second block.

First Federal is proposing expansion but parking is an issue. An agreement was reached with the City on purchasing the Brown Lot located behind Title Fact for employee parking. To make the design work, the existing customer parking lot is needed for office space and additional parking is needed in the street. Covered parking will be for handicap parking and for senior citizens.

Council discussion followed.

Alan Horner stated that parking on the street will be public parking, but will be asking that signage limiting time limits be placed. First Federal employees will not be allowed to park on the street.

Councilperson Talkington asked for clarification of the parking requirement for the new construction and how the public conveniences are enhanced by the one way.

Community Development Director Humble stated that the proposed building addition is located inside the P 1 Parking Overlay District. The P 1 Overlay District does not require parking be provided. It assumes that all parking will be provided in a public manner so long as streets and public lots are nearby. The building permit will be issued without a required parking lot being constructed. Public parking on the street will be used to meet the parking requirement in the building as well as all the other buildings in the area. He also stated that that the benefit to the public is additional parking in the area. Currently, parallel parking is limited on the south side of 4th Avenue North and parking will increase from six to seven spaces to twenty spaces. The parking between Gooding and Fairfield is the P 1 Overlay District and could be used by all businesses in the area for customers.

Gerald Martens stated that there will be a significant net increase of total parking in the neighborhood. On overhead projection he showed the proposed parking. He explained that the plan is to construct the entire block including the area in front of Title Fact. There will be landscaping in the islands and bulbs will be reconstructed at each end of the block, which results in a shorter crosswalk and safer for pedestrians. The block between Gooding and Fairfield at this time is proposed only for restriping and with angle parking on one side. In speaking with business owners Tim Thompson, Verlyn Broek, and Bill Kyle, they stated they are in favor of the increased parking. Just A Mere Inn has no net change impact. The building construction is 30,000 square feet. The block is a First Federal campus with the exception of Title Fact. Construction would begin in the spring.

Councilperson Munn recused himself at 5:59 P.M. from discussion and deliberations from the request. He stated his daughter is an employee of First Federal Bank.

Vice Mayor Hall asked for input of back end parking.

City Engineer Fields stated that she is in favor of back end parking. The two blocks of 4th Avenue North would be a one lane one way street as opposed to a multi-lane one way street. The geometry of the existing street is limiting and back end parking was discussed.

The City benefits with the request because this is one less block of pavement needing to be scheduled for replacement and curb cuts will ADA compliant. The street is a low volume road. The Sheriff's office will continue to be at the Courthouse and the Coroner's office will be at the DMV location.

Councilperson Mills Sojka asked how this will affect traffic. She is concerned of using public roads to meet business parking needs.

City Engineer Fields stated that the P 1, 2, and 3, Parking Overlay District were in place prior to her employment at the City. A one way traffic pattern in a commercial zone laid out some of the basis for consideration or denial of one way streets and other places downtown. Internally it was agreed that perhaps there is a need to have a larger discussion on expanding the potential of the one way street network in downtown. Staff will ask Council to consider funding the Transportation Master Plan Update next year.

Councilperson Talkington stated that he likes the innovation shown but is concerned that the direction of the one way will set the tone for any other parallels and perpendiculars. He asked if the City is in conflict with the Transportation Master Plan and if there is justification of the reduction of the traffic flow on 4th Street Avenue for one or two blocks by a private use, and what the mitigations in the surrounding commercial areas are.

City Engineer Fields stated the City is not necessarily in conflict with the Transportation Master Plan. The street is a residential class street. The street has an arterial two blocks away and a Shoshone acts as an arterial, and 6th is technically the collector street. She

did not believe that the choice to make this into a residential class street into a one way would substantially diminish capacity. It may be possible that staff would be subject to one parking requests in conflicting directions on every street.

Councilperson Barigar asked what is the net gain or net loss in parking in the area if 4th Avenue is kept as a two way street and parking was diagonal on the south side and the north side was parallel parking

City Engineer Fields explained the long term benefits of retaining the angle parking on the south side of 4th Avenue is to reduce pressure on the street.

Gerald Martens explained the direction of the one way and stated that Shoshone is a major collector allowing customers to do their business and leave. He requested signage limiting time limits be placed.

Councilperson Barigar stated his concern of creating excessive parking that is not used because it has conflicts with the traffic flows and while at the same time creating parking that is more convenient but perhaps creating confusing traffic flows.

Councilperson Hawkins asked if contact was made with the Presbyterian Church, located on 5th Avenue, as to how it will affect their traffic flow.

City Engineer Fields stated that she had not contacted the church. She explained that in the traffic data she did not see any concerns on the street.

Councilperson Mills Sojka asked if the applicant had other alternatives than what is proposed and if a cross use parking potential with the County was considered.

Gerald Martens stated that he expects that the County building will be occupied.

Alan Horner stated that he does not have any other alternatives than what is proposed.

Kevin Haight, Co-Chair of the Traffic Safety Commission, stated that the Commission voted unanimously in favor of the request.

Vice Mayor Hall stated that he would like the County to weigh in on the request.

Mayor Lanting made the motion to adjourn to recess at 6:40 P.M., to allow time for Commissioner Mills to arrive at the meeting.

Mayor Lanting convened the meeting at 6:49 P.M.

County Commissioner Leon Mills stated that the Commissioners spoke with Gerald Martens and Alan Horner a month ago and the Commissioners spoke in favor of the proposal of the one block on 4th Avenue North be turned into a one way. At this time, the County has not seen the current proposal. He personally did not believe there would be a problem making the second block of 4th Avenue a one way.

Councilperson Hawkins asked if it is possible to time the traffic lights on Shoshone Street to make a bigger gap for those who want to exit through 3rd Avenue.

City Engineer Fields stated that the Traffic Tech makes changes to the timing of all traffic lights when traffic patterns change.

Staff recommends that Council accept the Traffic Safety Commission's recommendation to modify the traffic pattern on 4th Avenue N., from Shoshone St. to Fairfield St. N, to one-way in the northwesterly direction.

MOTION:

Councilperson Talkington made the motion to approve the recommendation of the Traffic Safety Commission to modify the traffic pattern on 4th Avenue North, from Shoshone St. to Fairfield St. N, to one-way in the northwesterly direction, consistent with the plans of the applicant, First Federal, and with the other parties on that block and in compliance with all City Standards, input, and approval. The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0. Councilperson Munn abstained from voting.

5. Discussion and possible action on staff's research on anti-discrimination policies.

City Manager Rothweiler stated that staff made a commitment to Council to make a review of why cities have added "sexual orientation" to their anti-discrimination policies.

The issue was approached from two areas. The first area looked at was strictly from a city personnel manual only. The manual governs the activities of those employed by the City and also sets direction for those who may become employed by the City. The second is looking at what other cities, namely and most recently Boise, have done to incorporate a larger ordinance throughout the entire community. An ordinance will be much more encompassing and would include more than the City of Twin Falls. Human Resource Director Harris will be available for questions that the Council may have as to how they relate to the City's hiring practices and the internal aspects of the city's personnel.

Assistant to the City Manager Mike Williams will be sharing the background on his research.

Assistant to the City Manager Williams stated that he contacted the AIC to discuss the landscape and background as to what they had seen as to why cities are considering adopting additions to their resolution or adopting a citywide ordinance on the specific anti-discrimination language. Last year the State Senate and Affairs Committee received a bill that would amend the Idaho Human Rights Act to include banning discrimination in the matters of employment, housing, education, public accommodations on the basis of sexual orientation and gender identity. The bill did not receive the votes necessary and received no further consideration. The bill had to do more with hiring and firing and public opportunities in the matters of public accommodations, housing, etc., throughout the community. The legislature's decision to not add sexual orientation and gender identity into the State's non-discrimination policy has been a key motivation for some cities currently exploring and passing their own ordinance and resolution language. The other driver appears to be reported incidents and complaints of harassment based on sexual orientation occurring in some communities.

Maryanne Jordan, Council-President for the City of Boise, stated in 2007, language was added to their employee resolution to not discriminate based on sexual orientation or gender identity. Additionally, they did this to promote a safe workplace, promote equality, and found this as an opportunity to track and retain employees in the organization. The City was losing a significant amount of employees to the private sector. They believe the clause would promote economic development and employee retention as well. In 2012, they adopted a citywide ordinance. The Police Department showed there had been verbal and physical harassment taking place in their downtown corridor. Individuals did not feel they could go further in the judicial process citing concerns that they may have to explain to employers why they were going to court and why they would have to miss work. They believed this would open them up to hiring or firing. The City of Boise made the decision to go forward with the ordinance after the State Legislature chose not to take action on the matter. The process took them approximately eight months after working with members in the community, the Chamber of Commerce, and other interest groups.

The City of Pocatello adopted language into their employee personnel policy in 2009, to include the sexual orientation and gender identity language. In 2012, the City Council rejected a resolution condemning discrimination on the basis of sexual orientation and gender identity. The City Council decided that they wanted to do something that had more clout, and are currently looking at and adopting an ordinance similar to the City of Boise into their city code. The chair of their Human Relations Advisory Committee said the push for creating and adopting an ordinance was seen as a way to protect their gay and lesbian citizens in the matter of housing and employment.

The City of Sandpoint was the first to adopt such ordinance and essentially followed the same lines as to what occurred in Pocatello and Boise. They perceived a real problem within their community with harassment and they decided to go forward. This was prior to the 2012 Legislative Session.

There are several other communities who are considering a civil ordinance that includes the City of Idaho Falls and the City of Moscow. Before taking action they are looking at the ordinances passed by the City of Boise and the City of Sandpoint. In October 2012, the City of Driggs considered a similar ordinance but the ordinance failed.

The AIC and ICRIMP do not have guidance or a stance on what cities should do on the policy.

Currently, the City of Twin Falls includes anti-discrimination language in its employee resolution that is recognized by the U.S. Equal Employment Commission (EEOC). Employment decisions are based upon qualifications and performance.

Council discussion followed.

Councilperson Talkington asked if ICRMP had received any complaints or filings.

Mike Williams stated that in speaking with Jim McNall, he had not received any sort of claim of a city discriminating on the basis of sexual orientation or gender identity.

Councilperson Talkington stated that he would like ICRIMP to respond to the following questions in reference to the internal resolution and the 1964 Civil Rights Act, as amended: Is adequate protection being provided, are they making any recommendations to expand towards those additional classes, and what they perceive is the problem.

Mike Williams stated he has not asked ICRIMP any specific questions and will follow up with ICRIMP.

Councilperson Mills Sojka stated that she asked the question on sexual orientation a few weeks ago when discussing the personnel policy. The City's policy is that the City does not discriminate and the City does not discriminate based on sexual orientation. The policy does have a list of statuses that the City does not discriminate against and it may be beneficial to include sexual orientation. The intent of adding the language is a statement to not treat people differently regardless of their sexual orientation.

Oregon, Washington and Utah have added the language to their personnel policy; in addition, fifteen cities, including Salt Lake City, have a non-discrimination citywide policy. The issue is to be more inclusive and more specific. This is not based on any known circumstances, but crimes that involve rape and involve shame are not reported. If someone is being harassed based on femininity or masculinity in the City's organization, the intent is to create a place for a person receiving discrimination recourse. She is proposing that the language on sexual orientation be considered in the city employee policy only.

Mayor Lanting asked if it is written in our policy that the City does not discriminate for any reason.

City Manager Rothweiler stated that it is the City of Twin Falls policy not to discriminate and any form of discrimination is a form of harassment. The City of Twin Falls has a no tolerance harassment policy. Discrimination on the basis of sexual orientation is a form of harassment. The personnel policy manual includes the following language: *"The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit."*

Councilperson Munn asked if harassment based on femininity or masculinity is covered under sex in the EEOC and the Idaho Human Rights Commission; and, what is being considered is sexual orientation, which would give a right to persons who are gay, lesbian, and transgender in the workplace.

City Attorney Wonderlich responded in the affirmative and stated that the language sexual orientation would provide a right that is not provided under state or federal law, and this would be affecting only city employment.

Councilperson Mills Sojka stated that she does not see this as a new right being given that does not already exist.

Councilperson Hawkins stated that currently what is in place lines up with the EEOC statement. She stated her concern that if the City starts specifying sexual orientation, gender, etc., what happens when the next group wants to be included. She questioned if the City has a legal right to start picking and choosing which groups are listed and afforded specific rights. The City does not discriminate and is meeting legal guidelines.

St. Luke's Human Resource Department stated that the language is not in their personnel policy; however, Magic Valley St. Luke's Clinic has the language in their personnel policy. (The Magic Valley Regional Medical Center had it in their personnel policy.) Magic Valley St. Luke's Clinic is currently in the process of taking the language out of their local statement. They have no recorded problems, but are concerned that by leaving this in their policy they are opening themselves up to problems. In summary, she personally feels that the City does have a legal statement that the City does not discriminate.

Mayor Hall stated that the City of Twin Falls does not discriminate and this is stated in the City manual. He personally believes that as a past employee of the City and serving on the Council for seven years, the City does not believe in discrimination. He stated that this is more an exercise in political correctness than anything else.

Councilperson Talkington stated his wife, as a single school teacher, was seeking employment in a number of towns covered by the Civil Rights Act of 1964, and in one "religious" town she was discriminated against and was told she would not fit in. He stated he is not concerned about the next group that comes in and is not so sure that more sensitivity, even to a more specific statement for internal hiring only, is not worthy of consideration.

Councilperson Munn stated that it has been indicated that the City of Twin Falls has a policy that prohibits harassment in any form. He asked if the City has a written policy for complaints based on sexual orientation.

City Attorney Wonderlich responded in the affirmative. The person will have the right to go to the City Manager or City Council to complain of unfairness in their treatment.

Councilperson Munn stated for clarification that an employee, who claims that a supervisor harassed him/her or discriminated against him/her because he/she is gay or lesbian, could file a complaint according to the City's current resolution. It would then be investigated by a supervisor and brought to a disposition at some staff level, and if the employee is not satisfied, he/she could bring it to the City Council and the City Council would adjudicate the grievance. He asked for the procedure for cases of termination based on sexual orientation.

City Attorney Wonderlich stated that in cases of termination, there is an employment contract, and all city employees are employees at will. The City has adopted the same standards of the EEOC, and if the City violates the standards, the employee's recourse is to the Human Rights Commission. The Human Rights Commission will prosecute for the employee but the Commission will not pick up a violation that is not a violation of state or federal law.

Councilperson Munn asked what better benefit would be provided by adding the language sexual orientation to the employee resolution to people who are gay, lesbian or transgender. Provisions are in the employee resolution for both a grievance and discipline.

City Attorney Wonderlich stated that internally none, and externally, if there is a claim that puts them in a protected class they have recourse to the Human Rights Commission. He stated that he couldn't think of a way that the language would add more protection.

Councilperson Barigar stated he would argue that the language would not afford them less protection either by simply calling it by name, the same way he is not afforded any more or less protection with items listed out in the employee resolution. At a certain extent this isn't about necessarily affording additional rights to folks that they don't have now, but it is about being sensitive to understanding and recognizing a group of citizens who live in the community. In listening to NPR, today marks the 50th anniversary of George Wallace's speech as the Governor of Alabama, in which he spoke about "segregation now, segregation tomorrow, segregation forever." This is not about political correctness or about coming up with the next protected class that might walk in; it is a reality in 2013. A group of citizens who live and work in our community deserve, at a minimum, to be recognized and acknowledged for something they have no control over. The consideration of adding sexual orientation or gender identity as items in the internal employee manual is something that is owed to a segment of citizens. A consideration should be made to move forward for that in our community and for the global market place to acknowledge citizens with differences and share that with the world that all are acceptable.

Councilperson Mills Sojka stated that this is not about political correctness and not about addressing a group of people and sectioning them off. She stated her sexual orientation is a married heterosexual. It is simply stating a status and raising awareness. She stated that it is not okay to use the R word to describe someone to call them stupid. This is known because of awareness and education. She worked with children with a medical diagnosis of mental retardation and stated they are real people with a real diagnosis. In society, there is much disrespect of people who may be LGTBQ, (lesbian, gay, transgender, bisexual, or questioning.) Sexual orientation should be listed in the City's listed statuses that are not discriminated against. She explained the epidemic of suicide in schools because of bullying on the issue and the need for education.

Mayor Lanting stated he will allow public comment on the City of Twin Falls Employment Resolution only.

Cal Killinger stated that he was pleased to hear that Mr. Wonderlich stated that the language actually did not add any protection to the prospective or present employees.

Mayor Lanting stopped Mr. Killinger and stated that he would not allow testimony regarding behaviors.

Cal Killinger asked City Attorney Wonderlich if he said there is no benefit and they have sufficient protection now.

City Attorney Wonderlich said he did not state that there is no benefit. They have protection of the grievance procedure, arbitration and mediation procedure.

Cal Killinger spoke against the request. He believes that by adding the words sexual orientation is validating behavior. He stated that everybody has areas of weakness and areas of strength. Mr. Munn knows that people for many years make choices. They had free agency and made the wrong choice. He stated that he is not saying you don't show these people consideration and it is not saying don't hire them. In his church all are welcome. Mr. Munn and our criminal justice system have seen it. The American Liberties Union and Hollywood validates this behavior.

Councilperson Munn stated that because Mr. Killinger brought his name up, it is imperative for him to discuss his thoughts on the issue. He stated that one set of people believe homosexuality is a choice and the other set believes it is the way one is born. He stated his personal belief is that people are born homosexual and should be afforded the same protection afforded others.

Christopher Reed, 1486 Bradley Street, stated everyone is protected right now on a no discrimination policy and asked why the language is being considered.

MOTION:

Councilperson Mills Sojka made the motion to add sexual orientation to the Employee Resolution, under Section II, as it pertains to harassment and equal opportunity employment. The motion was seconded by Councilperson Barigar.

City Manager Rothweiler stated that staff's interpretation of the motion will be to add the language in all places where it would be appropriate, not just in Section II, but throughout the personnel manual, as it would be appropriate and as it mentions the other areas such as race, color, national origin, in order to provide consistency.

Councilperson Mills Sojka amended her motion to add sexual orientation to the Employee Resolution as stated by City Manager Rothweiler. Her second, Councilperson Barigar, agreed to the amendment.

Councilperson Barigar asked Councilperson Mills Sojka if she wanted to add the language "sexual orientation" or "sexual orientation identity."

Councilperson Mills Sojka stated that she wants to add sexual orientation only and explained that she majored in Sociology in College, and in sociology, gender and race is something that is studied. The actual definition of gender is socially constructed. Gender by definition is what you identify with and sex is the biology one is born with. The motion has no comment of support or lack of support for any gender identity or any sexual orientation; therefore, she believes sexual orientation suffices.

Councilperson Hawkins asked Human Resource Director Harris how many complaints the City received on discrimination in general.

Personnel Director Harris stated that she has been a City employee for 26 years and during that time three complaints went to the Human Rights Commission: one racial, one age, and one gender. All three cases were dismissed in the City's favor.

MOTION:

Councilperson Barigar proposed an amendment to the motion to expand the wording to include sexual orientation and sexual identity and expression. The motion failed for the lack of a second.

Roll call vote on the main motion showed Councilpersons Barigar, Lanting, Munn, Mills Sojka, and Talkington voted in favor of the motion. Councilpersons Hall and Hawkins voted against the motion. Approved 5 to 2.

City Manager Rothweiler stated that Marianne Jordan, City of Boise, will make herself available to explain the process, and in addition, she will be attending the January 31, 2013, AIC meeting.

6. Consideration and adoption of Ordinance Number 3045, an Ordinance of the City Council providing for the sale and issuance of bonds for the modified local improvement district (LID) number 2012-1 as requested by petition by Chobani.

City Manager Rothweiler explained the request.

Ordinance 3045 allows for the sale and issuance of bonds associated with LID number 2012-1. This is the last legislative step in this process.

Staff recommends the adoption of Ordinance 3045.

MOTION:

Councilperson Talkington made the motion suspend the rules and place Ordinance 3045, entitled: only:

AN ORDINANCE PROVIDING FOR THE SALE AND ISSUANCE OF BONDS FOR LOCAL IMPROVEMENT DISTRICT NO. 2012-1 OF THE CITY OF TWIN FALLS, IDAHO; PROVIDING FOR THE PAYMENT AND COLLECTION OF SPECIAL ASSESSMENTS LEVIED IN SAID LOCAL IMPROVEMENT DISTRICT; PROVIDING FOR THE HANDLING OF FUNDS RECEIVED FROM SPECIAL ASSESSMENTS AND THE CREATION AND ENFORCEMENT OF LIENS IN CONNECTION WITH THE SALE AND ISSUANCE OF BONDS; PROVIDING FOR THE CREATION OF A LOCAL IMPROVEMENT DISTRICT BOND FUND AND INTEREST FUND; PRESCRIBING DETAILS CONCERNING THE FOREGOING; PROVIDING FOR A REASSESSMENT OF ASSESSMENTS AND THE REISSUE OF BONDS; REPEALING CONFLICTING PROCEEDINGS; ORDERING PUBLICATION; PROVIDING IRREPEALABILITY; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

On third and final reading by title

The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion.

Deputy City Clerk Sanchez read the ordinance title.

MOTION:

Vice Mayor Hall made the motion to adopt Ordinance 3045, as presented. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion.

7. Public input and/or items from the City Manager and City Council.

City Manager Rothweiler reported on the following:

- The Citizens Advisory Committee on infrastructure will be held on Friday, January 18, 2013.
- The AIC Meeting will be held on Tuesday, January 22, 2013.
- The City of Twin Falls will be closed on Monday, January 21, 2013, for Martin Luther King Day.

Vice Mayor Hall gave a report on the Urban Renewal Agency and contract with Mark Rivers.

Councilperson Hawkins gave a report on the Youth Council and media coverage.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

IV. PUBLIC HEARINGS: 6:00 – None.

V. ADJOURNMENT: The meeting adjourned at 8:04 P.M.

Leila A. Sanchez
Deputy City Clerk/Recording Secretary



Date: Monday, February 4, 2013, Council Meeting

To: Honorable Mayor and City Council

From: Chief Brian Pike

Request:

Consideration of a request for Chief Brian Pike to formally “promote” **Sergeant Justin Dimond**. Chief Pike would also like to request that Mayor Don Hall administer the Oath of Office to **Bradley Baisch**, the Police Department’s newest Police Officer.

Time Estimate:

The presentation will take approximately 10 minutes.

Background:

BRADLEY BAISCH was hired by the Twin Falls Police Department on January 22, 2013, as a full-time Police Officer.

Brad was born in Twin Falls, Idaho, and graduated from Twin Falls High School. He completed the Law Enforcement Program at the College of Southern Idaho in July 2011.

Prior to his employment with our Department, Brad was employed by NAPA Auto Parts from July 2009 to January 18, 2013. Brad has coached seventh and eighth graders at O’Leary Middle School on the fundamentals and rules of football since August 2010. Brad is also an Adult Leader with the Boy Scouts and sits on the Eagle Scouts Board of Review Committee.

JUSTIN DIMOND began his career in law enforcement with the Kimberly Police Department in June 1999 and was then employed by the Twin Falls County Sheriff’s Office from December 2000 to March 2004. Justin was hired by the Twin Falls Police Department in April 2004. In December 2007, he was deployed as an international police officer in Iraq until March 2009. Justin was re-hired by the Twin Falls Police Department on May 18, 2009, as a full-time Police Officer.

During his career with our Department, Justin has served as a Police Officer in the Patrol Division and was reassigned to the Criminal Investigation Division as a Case Detective in October of 2010.

After a very competitive promotional process, Justin Dimond was selected for the position of Sergeant. Sergeant Dimond will formally assume his new supervisory duties in the Patrol Division on February 18, 2013.

Agenda Item for February 4, 2013
From Chief Brian Pike
Page Two

Approval Process:

N/A

Budget Impact:

Approval of this request will not impact the City budget.

Regulatory Impact:

N/A

Conclusion:

Chief Pike would like to formally swear in Police Officer Bradley Baisch to his new position with the Twin Falls Police Department and also promote Sergeant Justin Dimond before the City Council.

Attachments:

None



Date: Monday, February 4, 2013
To: Honorable Mayor and City Council
From: Rene'e V. Carraway, Community Development Department

Request: Consideration of a request to reconsider conditions placed on an amendment to the WS&V R-6 PRO PUD Agreement, approved October 22, 2012.

Time Estimate: The applicant's presentation may take up to fifteen (15) minutes. Staff's presentation may take an additional five (5) minutes. Time will be needed for discussion and questions.

Background: On October 22, 2012 the City Council held a public hearing to consider a request for an amendment to the WS&V R-6 PRO PUD Agreement #263 to allow for the development of a 60-unit residential apartment complex on a five (5) acre lot on property located on the west side of the 1300 Block of Field Stream Way.

The request was presented at a public hearing before the Planning & Zoning Commission on September 25, 2012. The Commission unanimously recommended approval of the amendment, as presented, and subject to four (4) conditions. The Commission's recommendation was presented to the City Council at a public hearing on October 22, 2012. The City Council approved the request, as recommended by the Planning & Zoning Commission, by a vote of 5 for and 1 against. The applicant states in his letter they feel there has been a misunderstanding in the interpretation of their original proposal and they wish the City Council to reconsider their decision.

This request is not a public hearing. It is a discussion between the City Council to determine if there is just cause to bring this item back through a public hearing process. If so, notification to the surrounding property owners within 300' of this site and any other properties as determined by the Administrator that are impacted by this zoning action will be notified in compliance with local land use planning notification requirements. If the City Council determines their decision was represented accurately both in the minutes and the draft Amendment to the WS&V PUD Agreement #263 then no further action is required.

Approval Process:

A simple majority vote is required to approve the request.

Budget Impact:

Approval of this request will require the amended WS&V R-6 PRO PUD to be scheduled for another public hearing before the City Council. Therefore, notices will be required to be mailed to surrounding property owners and posted in the newspaper. The cost of public hearing notices are typically the responsibility of the applicant.

Regulatory Impact:

The amended WS&V R-6 PRO PUD agreement approved by the Council in October has not yet been executed. Approval of this request will allow another public hearing to be scheduled for the Council to reconsider their October approval of the PUD amendment. In that event, the execution of the amended PUD agreement will be delayed until after that hearing can take place.

Conclusion:

Staff recommends that the Council review the applicant's request and decide whether or not to allow reconsideration of the amended WS&V R-6 PRO PUD at a future City Council public hearing.

Attachments:

1. Letter by Applicant
2. Portion of Minutes of the September 25, 2012 P&Z minutes
3. Portion of Minutes of the October 22, 2012 CC minutes.
4. Draft Amendment to WS&V PUD Agreement #263.

WS&V LLC

Jack Straubhar, Member
208 420-8255

Post Office Box 31
Twin Falls ID 83303-0031

Doug Vollmer, Member
208 420-5651

Date: January 29, 2013

To: Twin Falls City Council

Re.: WS&V PUD
Reconsideration of the Addendum to R-6 PRO Planned Unit Development Agreement

Honorable Mayor and City Council Members:

Please accept this correspondence as the official request of WS&V, LLC for a reconsideration of your October 22nd, 2012 decision regarding an Amendment to our Planned Unit Development Agreement.

Throughout the course of this application for amendment it was apparent that there were various misunderstandings that contributed to the need for a reconsideration of this decision. Originally, the amendment was submitted for the entire PUD although it was interpreted to be only for Lot 1 (the Field Stream Apartment development). A major factor in that misunderstanding was quite possibly the fact that the Field Stream Apartment development was the catalyst for the amendment although it was not our intent to amend the PUD only for that portion of the development. After discussions with staff in regards to their interpretation it was agreeable to amend the wording originally presented. The following were the proposed amendments presented to Council after Planning and Zoning's decision as an attempt to comply with the commissions basic concerns:

Amend the following subsections of "Exhibit C" as follows:

- (A)7.a. Accessory buildings (less than 1,000 square feet), personal swimming pools and other accessory uses. Accessory buildings (more than 1,000 square feet) if associated with a residential development for use as a carport, garage, or clubhouse.
- (D)1. Use Of Lots: Each building, except accessory structures, shall be located on a separate lot and the buildings or structures thereon shall conform to the minimum dimensional standards contained herein. Multiple buildings are allowed on one lot for the purpose of a residential development under one ownership for Lot 1, Block 1 of the PUD or by Special Use permit for any other Lot within the PUD.
 - a. Minimum of 15% and a Maximum of 85% of the entire development (PUD) to be residential development.

RECEIVED
JAN 30 2013
CITY OF TWIN FALLS
BUILDING DEPT.

(D)12.d. Buildings shall have exteriors of architectural masonry, stone, stucco, architectural steel siding, wood, or cementitious materials (e.g. Hardie board).

At the City Council meeting it was apparent that Council, staff, and we the developers, all had become confused in the details as presented. Therefore we are asking for reconsideration of the decision and feel an item by item description is necessary to clarify the request.

The first item, (A)7.a was requested to accommodate carports, garages, and clubhouses since they are essential to the type of developments that could be foreseen in the designated zone. The need for a secondary special use permit seemed redundant since we were basically agreeing to the special use permit process on similar multifamily developments within this PUD.

The second item (D)1. was requested to include not only Lot 1, Block 1 as presented but also to allow for the same for all subsequent lots within the development. It was our understanding that the Planning and Zoning commission was not outright against any similar development and they were moreover looking for the opportunity to review it for conformance. The special use permit process which we proposed did exactly that. This item also cleared up the conflicting language regarding percentages of the project and uses which Council approved.

The third Item (D)12.d. was in regards to exterior sidings which the Council approved.

We feel it's important to note that the Planned Unit Development process was put in place for this development to provide flexibility in the design process which is precisely one of the purposes identified in City code for this subdistrict. The amendment as presented was to clarify possible misunderstandings, not to create them. We respectfully request that you reconsider your decision and approve our amendment in it's entirety as presented.

Sincerely,

WS&V, LLC



Douglas Vollmer, Member



MINUTES
Twin Falls City Planning & Zoning
Commission
September 25, 2012-6:00 PM
City Council Chambers
305 3rd Avenue East Twin Falls, ID 83301

PLANNING & ZONING COMMISSION MEMBERS

CITY LIMITS:

Wayne Bohrn Jason Derricott Tom Frank Kevin Grey Terry Ihler V. Lane Jacobson Chuck Sharp
Chairman Vice-Chairman

AREA OF IMPACT:

Lee DeVore Steve Woods

CITY COUNCIL LIAISON

Rebecca Mills Sojka Suzanne Hawkins

ATTENDANCE

PLANNING & ZONING MEMBERS

PRESENT:

Bohrn
Derricott
Frank
Grey
Ihler
Jacobson
Sharp

ABSENT:

AREA OF IMPACT MEMBERS

PRESENT:

DeVore
Woods

ABSENT:

CITY COUNCIL MEMBERS PRESENT: Hawkins, Mills-Sojka

CITY STAFF PRESENT: Carraway, Glaesemann, Spendlove, Strickland, Wonderlich

AGENDA ITEMS FOR CONSIDERATION AND PUBLIC HEARING

III. ITEMS OF CONSIDERATION: NONE

IV. PUBLIC HEARINGS:

1. Commission's recommendation on a request for a PUD Amendment to the WS&V – R-6 PRO Planned Unit Development Agreement to allow for the development of a 60-unit residential apartment complex on a five (5) +/- acres lot on property located on the west side of the 1300 North Block of Field Stream Way c/o Doug Vollmer on behalf of WS&V, LLC. (app. 2527)
2. Request for a Special Use Permit to operate a home occupation that offers service, design and installation of electronics, computer, software, etc., for the property located at 1520 Princeton Drive. c/o Jesse Campbell. (app. 2528)

I. CALL MEETING TO ORDER:

Chairman Bohrn called the meeting to order at 6:00 P.M. He then reviewed the public meeting procedures with the audience, confirmed there was a quorum present and introduced City Staff present.

II. CONSENT CALENDAR:

1. Approval of Minutes from the following meeting(s): **June 29, 2012 (Special Meeting)**
September 11, 2012
2. Approval of Findings of Fact and Conclusions of Law: **NONE**

MOTION:

Commissioner DeVore made a motion to approve the consent calendar as presented. Commissioner Frank seconded the motion.

UNANIMOUSLY APPROVED

III. ITEMS OF CONSIDERATION: NONE

IV. PUBLIC HEARING ITEMS

1. Commission's recommendation on a request for a PUD Amendment to the WS&V – R-6 PRO Planned Unit Development Agreement to allow for the development of a 60-unit residential apartment complex on a five (5) +/- acres lot on property located on the west side of the 1300 North Block of Field Stream Way c/o Doug Vollmer on behalf of WS&V, LLC. (app. 2527)

APPLICANT PRESENTATION:

Tim Vawser, EHM Engineering, Inc, representing the applicant WS&V, LLC, stated this is a request for a PUD Amendment, for a 19.31 acre development. He reviewed exhibits on the overhead for clarification of the property location and the surrounding development of the property.

Initially the PUD was to allow R-6 PRO with some residential, professional office/commercial mix and divided the property into five larger lots with no real users in mind at the time. As of a few months ago an identified user came forward for a housing development. Looking through the PUD Agreement some things needed to be changed to assist the housing development in moving forward. The representative Kathryn Almborg for The Housing Development, is available for questions related to the proposed development.

- Currently the PUD allows for 1000 sq. ft however anything over that size would require a special use permit. This development would like to have a clubhouse building for the apartments and would like to have the accessory buildings greater than 1000 sq. ft. allowed without a special use permit.
- They applicant would also like to request that the PUD allow for the development to occur on one parcel under one ownership versus dividing the property into separate parcels for each building.
- The next item is a request for clarification regarding the 15%-85% ratio for the development, and if it applies to each parcel. This development would be 100% residential.
- The final request is to allow for additional building material allowances eg. Hardie Board to keep in accordance with a residential feel.

The only other thing that the applicant would like the Commission to consider is that these amendments apply to the entire 19.31 (+/-) acres and not just the 5 (+/-) acres associated with the apartment project.

STAFF PRESENTATION:

Zoning & Development Manager Carraway reviewed the exhibits on the overhead and stated this is a request for an amendment to the WS&V PUD Agreement. She reviewed the history of the property and stated, in 2006, 37 (+/-) acres were annexed, which includes the property being proposed for a PUD amendment this

evening. The site was annexed under the existing R-2 zoning designation. In 2008 a Special Use Permit was granted to allow a religious facility on a 5(+/-) acre parcel located at the southeast corner of this property. As of this date the church has not been constructed. Later that year a Special Use Permit was granted to develop the Xavier Charter School. The site was platted and the school began operating in 2010. In 2009, The Cottages, a unique and creative residential R-4 PUD was approved. The project consisted of 6 (+/-) acres, but was not developed. In September 2010 this piece along with the remaining property was rezoned from R-2 and R-4 PUD to R-6 PRO PUD designation. The WS&V PUD Agreement was adopted by the City Council on March 12, 2012. The original PUD was approved emphasizing within this PUD there could be a "community type" retirement home complex and also encouraged associated medical type offices that support this type of "Community Type" retirement home complex.

On January 10, 2012 the Planning & Zoning Commission approved the preliminary plat of the WS&V Subdivision-A PUD, and on February 6, 2012 the City Council approved the final plat as presented and subject to 7 conditions. As of today's date the final plat of the WS&V subdivision-A PUD has not been recorded.

The preliminary presentation for this request to allow a PUD Agreement Amendment was held on September 11, 2012. This is a request for an amendment to the WS&V R-6 PRO PUD and Master Development Plan to allow the development of a 60-unit residential apartment complex on a 5(+/-) acre lot on property located on the west side of the 1300 north block of field stream way.

There are (4) changes being proposed from the PUD Agreement, "Exhibit C" they are as follows:

1. Land Use Regulations: Under residential permitted uses it states-Accessory Buildings (Less than 1, 000 sq. ft.) are allowed. The proposed change would also allow accessory buildings (more than 1,000 sq. ft.) if associated with residential development for use as a carport, garage, or clubhouse. There are carports, garages & a clubhouse planned as part of the residential apartment complex.
 - The applicant would like to be able to construct the Clubhouse without having to go through a Special Use Permit process.
2. Property Development Standards; Use of lots: There is a requirement that each building, except accessory structures, shall be located on a separate lot, and the building or structures thereon shall conform to the minimum dimensional standard contained herein. The proposed development consists of a 60 unit apartment complex on a single lot; project consists of 10 buildings with 6 units each; and includes carports/garages and a clubhouse. The existing R-6 PRO PUD allows only one building per lot. The proposed change would allow multiple

buildings on one lot for the purpose of a residential development under single ownership.

- The applicant would like to develop the proposed apartment complex, including carports and a clubhouse for the residents, on one lot, eliminating the requirement for platting.
3. Property Development Standards: Use of lots: (a) Lot Area; requires a minimum of 15% and a maximum of 85% of the project/development be residential development. The proposed change would clarify that a minimum of 15% and a maximum of 85% of the entire development (PUD) is to be residential development.
- The applicant would like to develop this residential apartment project as 100% residential development. The total PUD would still need to meet the 15%-85% Ratio.
4. Property Development Standards: Building Materials; states buildings shall have exteriors of architectural masonry, stone, stucco and architectural steel siding. The applicant is proposed to add wood or cementitious materials (eg. Hardie Board) This would allow the proposing development of this lot to have an exterior siding that is harmonious with residential development.
- The applicant would like to develop this project with "exterior siding that is harmonious with residential development."

As of today's date the Final Plat of the WS&V Subdivision-A PUD has not been recorded. One of the requirements of the subdivision platting process is to provide

the city with a completed water & sewer model. Under the engineering dept review of this zoning proposal they indicated due to the proposed change in density they will require a new review of infrastructure modeling prior to recordation of the final plat of the WS&V Subdivision-A PUD .

The WS&V PUD requires that a minimum of 10% of the total area of residential development be landscaped and in addition there shall be street frontage and perimeter landscaping & berming; landscaping shall be subject to planting ratios of trees & bushes as per City Code Title 10; Chapter 11.

Development requirements such as storm water retention, PI, lighting, a complete parking analysis, etc. will also be reviewed as part of the building permit review process to assure compliance with City Code and the PUD development requirements.

The original PUD was approved emphasizing within this PUD there could be a "community type" retirement home complex & which also would encourage associated medical type offices that support this type of "community type" retirement home complex.

Staff recommends this proposed amendment to the WS&V PUD agreement, if approved, be limited to the "Field Stream Apartment" project, as presented.

The area proposed for this residential project is designated as Urban Village/Urban Infill and complete development of the PUD, as approved, remains in compliance with the Comprehensive Plan.

As a reminder, this process requires a preliminary presentation to the public followed by a public hearing. The Commission is asked to make a recommendation on the request. Their recommendation is automatically scheduled for a public hearing before the City Council who shall make a decision on the request.

The applicant made a presentation at the Commission's September 11, 2012 Meeting. They represented the proposed amendments to the PUD Agreement was to allow the development of a 60 unit residential apartment complex on one 5(+/-) acre lot without having to go through the platting and/or the special use process. There was no public comment nor questions from the Commission to the applicant regarding the proposed changes to the WS&V PUD.

Zoning & Development Manager Carraway stated upon conclusion the Commission is asked to make a recommendation on this request for an amendment to the WS&V PUD Agreement. Should the Commission recommend approval of this request, as presented, staff recommends the following conditions:

1. Subject to amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards and the WS&V PUD Agreement #263- amended, as approved.
2. Subject to a new review of infrastructure modeling due to the changes in capacity being proposed for this development, to include a current water/sewer model.
3. Subject to the final plat of the WS&V Subdivision-A PUD, being recorded.
4. Subject to the PUD amendment being limited to the "Field Stream Apartment" project, as approved.

COMMISSIONER QUESTIONS/COMMENTS:

- Commissioner Frank, asked if this development would allow for elderly tenants also.
- Ms. Alberg The Housing Company representative, stated there would be no age limits or restrictions for the tenants in this complex.
- Commissioner Sharp asked about the Professional Office Overlay and if all five lots were originally planned to be professional.

- Mr. Vawser stated that there were several uses planned for this development. The idea was to have a mix of uses. There would be a residential requirement to fill but a mixed use was planned.
- Commissioner Gray asked about the amendment applying to the entire acreage, but staff is asking the amendments be limited to the 5 acres, so that the development is reviewed for compliance.
- Mr. Vawser stated that is correct it would help to reduce delays in development.

PUBLIC HEARING: OPENED

- Brad Wills, stated he owns the property to the east of this location and previously changes came through to allow Cheney to extend through to this project. There was a change of zoning on the northwest area of Fieldstream Way to allow for a transition from residential. As the land owner to the east of this location he is in support of the request.

PUBLIC HEARING: CLOSED

DELIBERATIONS FOLLOWED:

- Commissioner Frank, stated he understands the applicants request to consider the full land area for the amendment however without a Master Development Plan he would only be comfortable approving the changes for the 5 acres.
- Commissioner Woods asked about lighting issues that may impact surrounding properties. He also has questions about pressurized irrigation and if there would be planning to prevent lawns from dying while it's being put into place. He would also have reservations about granting changes to the entire area.
- Commissioner Gray asked if the PI is looked at in their review.
- Engineer Glaessmen explained that the requirement for the final plat approval are reviewed and this would be reviewed in order for the development to move forward.
- Commissioner Bohrn stated this is how planning should progress, he is in support of an apartment complex/development versus have the increased traffic by building single family homes on a bunch of small R-6 lots. He would also be in support of restricting the changes to just the 5 acres.

MOTION:

Commissioner Frank made a motion to recommend approval of the request, as presented, with staff recommendations. Commissioner Ihler seconded the motion. All members present voted in favor of the motion.

**RECOMMENDED FOR APPROVAL, AS PRESENTED, TO THE CITY COUNCIL
WITH STAFF RECOMMENDATIONS, AS FOLLOWS:**

1. Subject to amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards and the WS&V PUD agreement #263- amended, as approved.

2. Subject to a new review of infrastructure modeling due to the changes in capacity being proposed for this development, to include a current water/sewer model.
3. Subject to the final plat of the WS&V Subdivision-A PUD, being recorded.
4. Subject to the PUD amendment being limited to the "Field Stream Apartment" project, as approved.

PUBLIC HEARING SCHEDULED OCTOBER 22, 2012

COUNCIL MEMBERS:

SHAWN	DON	SUZANNE	GREGORY	JIM	REBECCA	CHRIS
BARIGAR	HALL	HAWKINS	LANTING	MUNN, JR.	MILLS SOJKA	TALKINGTON
	<i>Vice Mayor</i>		<i>Mayor</i>			

**MINUTES**

Meeting of the Twin Falls City Council
 Monday, October 22, 2012
 City Council Chambers
 305 3rd Avenue East -Twin Falls, Idaho

5:30 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG
 CONFIRMATION OF QUORUM
 INTRODUCTION OF STAFF
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:
 PROCLAMATIONS: None

AGENDA ITEMS	Purpose	By:
CONSENT CALENDAR:	Action	Staff Report Sharon Bryan
1. Consideration of a request to approve the accounts payable for October 16 -22, 2012, total: \$283,944.54 September 2012, total: \$2,776,519.22		
2. Consideration of a request to approve the October 15, 2012, City Council Minutes.		L. Sanchez
3. Consideration of a request to approve the Conveyance Final Plat of the John Reeder Subdivision consisting of 2 lots on 4.97± acres located at 1259 & 1275 Madrona St. North.		Mitch Humble
4. Consideration of a request to adopt Resolution No. 1894, establishing the local limits of 10 pollutants for the Wastewater Treatment Plant.		Jon Caton
5. Consideration of a request to approve the renewal of the Real Property Lease Agreement between the State of Idaho, Transportation Department and the City of Twin Falls for the Visitors Center.		Travis Rothweiler
ITEMS FOR CONSIDERATION:		
1. Consideration of a request to reappoint members of the Improvement Reimbursement Commission.	Action	Troy Vitek
2. Consideration of a petition and a request to adopt a resolution creating a Local Improvement District on a portion of real property owned by Chobani Inc. (Petition and resolution will be distributed on Monday, October 22, 2012.)	Action	Travis Rothweiler
3. Public input and/or items from the City Manager and City Council.		
III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:		
IV. PUBLIC HEARINGS: 6:00 - P.M.		
1. Consideration of a request for approval of a PUD Amendment to the WS&V – R-6 PRO Planned Unit Development Agreement to allow for the development of a 60-unit residential apartment complex on a five (5) ± acre lot on property located on the west side of the 1300 North Block of Field Stream Way.	Public Hearing	Mitch Humble
V. ADJOURNMENT:		

**Any person(s) needing special accommodations to participate in the above noticed meeting should contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting.*

Present: Shawn Barigar, Don Hall, Suzanne Hawkins, Jim Munn, Jr., Rebecca Mills Sojka, and Chris Talkington.
Absent: Greg Lanting
Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Public Works Director Jon Caton, Zoning & Development Manager Renee' Carraway, Assistant City Engineer Troy Vitek, Assistant to the City Manager Mike Williams, Public Information Officer Joshua Palmer, Deputy City Clerk/Recording Secretary Leila A. Sanchez

Acting Mayor Hall called the meeting to order at 5:00 P.M. He then invited all present, who wished to, to recite the pledge of Allegiance to the Flag with him. Acting Mayor Hall introduced staff. A quorum is present.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None

PROCLAMATIONS: None

5:30 P.M.

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of a request to approve the accounts payable for October 16 -22, 2012, total: \$283,944.54
September 2012, total: \$2,776,519.22
October 23, 2012, total: \$549.27
2. Consideration of a request to approve the October 15, 2012, City Council Minutes.
3. Consideration of a request to approve the Conveyance Final Plat of the John Reeder Subdivision consisting of 2 lots on 4.97± acres located at 1259 & 1275 Madrona St. North.
4. Consideration of a request to adopt Resolution No. 1894, establishing the local limits of 10 pollutants for the Wastewater Treatment Plant.
5. Consideration of a request to approve the renewal of the Real Property Lease Agreement between the State of Idaho, Transportation Department and the City of Twin Falls for the Visitors Center.

Councilperson Barigar requested Item I. 5. be removed from the Consent Calendar and be heard as a separate agenda item.

Consideration of a request to approve the renewal of the Real Property Lease Agreement between the State of Idaho, Transportation Department and the City of Twin Falls for the Visitors Center.

Councilperson Mills Sojka asked for clarification on Consent Item I.4. *Consideration of a request to adopt Resolution No. 1894, establishing the local limits of 10 pollutants for the Wastewater Treatment Plant.*

Jon Caton, Public Works Director, explained the request. A local limit study is periodically required by EPA. The local limit study is simply a chemical analysis of the wastewater as it enters the treatment plant. The purpose of the study is to see if there are any pollutant concentrations of concern. This study demonstrated a slight increase in the presence of heavy metals. It is difficult to determine where or why there was an increase, so by resolution, we are proposing to change the allowable limit of heavy metals in accordance with our sewer use ordinance.

MOTION:

Councilperson Mills Sojka made the motion to approve the Consent Calendar minus I.5. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.

Councilperson Barigar stated that he would abstain from voting on Item for Consideration 5., because of his association with the Chamber of Commerce.

MOTION:

Councilperson Talkington made the motion to approve Item for Consideration 5. *Consideration of a request to approve the renewal of the Real Property Lease Agreement between the State of Idaho, Transportation Department and the City of Twin Falls for the Visitors Center.* The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 5 to 0. Councilperson Barigar abstained from voting.

II. ITEMS FOR CONSIDERATION:

1. Consideration of a request to reappoint members of the Improvement Reimbursement Commission.

Troy Vittek explained the request.

Staff recommends reappointing Tony Hughes and Samantha Evans for three (3) year terms (expires October 22, 2015), Scott Standley, Dave Van Engelen for two (2) years (expires October 22, 2014), and Rod Mathis, Doug Vollmer, and Gerald Martens for one (1) year (expires October 22, 2013). This meets the Tenure requirements of section 2-12-8 of the ordinance and allows future staggering of members.

Council discussion followed.

Councilperson Talkington stated that from the presentation, perspective members are required to have knowledge of subdivision development. He stated his concern of conflict of favoritism because at least two of the members are active developers. He asked the City Attorney to explain the members' limits and boundaries; and, if an active member has participated in some form of preparation of site plans, surveying, and financing, would this not constitute a cross over conflict.

City Attorney Wonderlich stated that a member would not be allowed to participate in discussion if their development is before the board. The statute has a requirement to have a certain composition of members.

MOTION:

Councilperson Barigar made the motion to reappoint the members of the Reimbursement Commission as presented. Tony Hughes and Samantha Evans for three (3) year terms (expires October 22, 2015), Scott Standley, Dave Van Engelen for two (2) years (expires October 22, 2014), and Rod Mathis, Doug Vollmer, and Gerald Martens for one (1) year (expires October 22, 2013).

Councilperson Talkington stated that he will be voting against the motion. He does realize the framework of the committee has benefit, but believes it's a faulty structure that prevents those actively participating in development to make decisions potentially affecting themselves, but more especially associates, or those potential customers.

Roll call vote showed Councilperson Barigar, Hall, Hawkins, Munn, and Mills Sojka voted in favor of the motion. Councilperson Talkington voted against the motion. Approved 5 to 1.

2. Consideration of a petition and a request to adopt a resolution creating a Local Improvement District on a portion of real property owned by Chobani Inc. (Petition and resolution will be distributed on Monday, October 22, 2012.)

City Manager Rothweiler explained the request.

Chobani is requesting the formation of a modified local improvement district. In a traditional LID, the improvements are typically contained within the LID boundary, which is approximately 20 acres ± contained in the Chobani facility building footprint. The local improvements outside of the LID boundary include the water system improvements, waste water system improvements, roadway improvements, and utility system improvements.

The LID is used to assist and secure funding and financing for the long-term debt. A LID does not cause or create any financial liabilities for the City. The costs for creating an LID are covered with TIFF dollars.

The proposed resolution states the City's intent to create a "modified district" and that on November 5, 2012, a public hearing will be held and at that time the Council may elect to adopt an ordinance creating the LID, which will be contained and limited to approximately 20 acres of the total 190 acres owned by Chobani Idaho, Inc.

Council discussion followed:

Councilperson Talkington stated the eventual creation of the LID allows the property to be securitized as a protection against any sort of a public lien. It is the instrument that the lending institution, Zion's Bank, has for their protection for payback in the unlikely event of default.

Councilperson Talkington referred to EXHIBIT "C" of the Resolution. He asked if information could be presented to the Council and available for public scrutiny of the financing fees and costs of issuing the bonds of \$750,000.

City Manager Rothweiler explained that there is a series of bond counselors, as both the City and the URA of Twin Falls have bond counselors. Rick Skinner represents the sale of the bond. Zion's Bank has legal representatives bond counsel, Chobani's legal counsel is Ed Miller, the financial advisor is Western Financial Group, and the bond trustees will more likely be Zion's Corporate Trust. The Chobani Idaho, Inc., documents will be made available on the City's website.

MOTION:

Councilperson Bangor moved the motion to adopt Resolution 1895.

The motion was seconded by Councilperson Hawkins and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.

3. Public input and/or items from the City Manager and City Council.
No public input.

City Manager Rothweiler invited the members of the Council and the media to meet at the Twin Falls Council Chambers to tour the facilities water system on October 29, 2012, at 3:30 P.M.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS: None.

Acting Mayor Hall explained the public hearing procedures.

IV. PUBLIC HEARINGS: 6:00 - P.M.

4. Consideration of a request for approval of a PUD Amendment to the WS&V – R-6 PRO Planned Unit Development Agreement to allow for the development of a 60-unit residential apartment complex on a five (5) ± acre lot on property located on the west side of the 1300 North Block of Field Stream Way.

Tim Vawser, EHM Engineers, representing the applicant, explained the requested changes to be made to the PUD Agreement. Interest has been expressed by Idaho Housing and Finance Association for Lot 1 Block 1 of the PUD. Their plan is to place ten units with 60 total residences, and a clubhouse.

Mr. Vawser stated the Planning & Zoning Commission stated that they wanted to take a look at each subsequent development. The clarification of the minimum of 15% and a maximum of 85%, the siting, and accessory buildings are an essential item to the entire PUD. After the commission's recommendation the applicant has made a change to the original request.

The applicant is requesting that on Lot 1 Block 1 this would be outright allowed, but would be required to come before the Commission for review if it were proposed on any other lot.

Zoning & Development Manager Carraway reviewed the request, and the history of the property. She explained the highlighted changes requested by the applicant.

There are four (4) changes being proposed from Exhibit "C" of the WS&V R-6 Pro PUD Agreement. They are as follows:

1. LAND USE REGULATIONS: A7(A) Permitted Uses; –Under Residential Permitted Uses It States –"Accessory Buildings, (Less Than 1,000 Sq Ft), Are Allowed. B7(A) Special Uses; - Requires All Accessory Buildings Over 1,000 Sq Ft Require A Special Use Permit. The Proposed Change Is Asking To Allow Any Accessory Building Regardless Of Size And If Associated With Residential Development (For Uses Such As Carports, Garages, Or A Clubhouse) Be Outright Permitted Uses. There Are Carports, Garages & A Clubhouse Being Proposed As Part Of This Residential Apartment Complex.

The applicant would like to be able to construct any residential accessory structure and the clubhouse without having to go through a special use permit process.

2. PROPERTY DEVELOPMENT STANDARDS: (D)1. Use Of Lots: States There Is A Requirement That Each Building, Except Accessory Structures, Shall Be Located On A Separate Lot. The Proposed Development Consists Of A 60-Unit Residential Apartment Complex Consisting Of 10 Separate Buildings W/ 6 Residential Units Each; All On A Single Lot And Which Also Includes Carports/Garages And A Clubhouse For Use By The Tenants. The Code And The Existing R-6 PRO PUD Allows For Only One Building Per Lot. The Proposed Change Would Allow Multiple Buildings On One Lot For The Purpose Of A Residential Development Which Shall Remain Under Single Ownership. After the P&Z public hearing the applicant added the requirement that any other development would require a special use permit if multiple buildings were proposed on one lot.

The applicant would like to develop the proposed apartment complex, including carports and a clubhouse for the tenants, on one lot, eliminating the requirement for platting.

3. PROPERTY DEVELOPMENT STANDARDS: (D)1a. Use Of Lots: A-Lot Area: States There Is A Requirement That A Minimum Of 15% And A Maximum Of 85% Of The Project/Development Shall Be Residential. The Proposed Change Would Clarify That A Minimum Of 15% And A Maximum Of 85% Of The ENTIRE Development (PUD) Is To Be Residential Development.

The applicant would like to develop this residential apartment project as a 100% residential development. The total PUD would still need to meet the 15%-85% ratio

4. PROPERTY DEVELOPMENT STANDARDS: (D)12.D. Building Materials: States Buildings Shall Have Exteriors Of Architectural Masonry, Stone, Stucco, And Architectural Steel Siding. The Applicant Is Proposing To Add Wood Or Cementitious Materials (E.G. Hardie Board). This Would Allow The Proposed Development Of This Lot To Have An Exterior Siding That Is Harmonious With Residential Development.

The applicant would like to develop this project with "exterior siding that is harmonious with residential development".

At the September 25, 2012, public hearing the Commission unanimously recommended approval of this request, as presented, subject to the following conditions:

1. Subject to amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable city code requirements and standards and the WS&V PUD Agreement #263- Amended, as approved.
2. Subject to a new review of infrastructure modeling due to the changes in capacity being proposed for this development, to include a current water/sewer model.
3. Subject to the Final Plat of the WS&V Subdivision, a PUD, being recorded. Staff would like to add that both the Final plat and the Amended PUD Agreement be recorded "prior to any development."
4. The PUD Amendment is limited to the "Field Stream Apartment" project, as approved.

The Commission is in the support of the project. The project is in compliance with the comprehensive plan and fits in the general nature of the area. The proposal to amend the 20 acres for the entire project without having the ability to see what other future developments would occur was a concern of the Commission.

The Commission is in support of the minimum of 15% and a maximum of 85% of the entire development (PUD) to be residential development, and , wood, or cementitious materials (e.g. Hardie Board). The Commission supports accessory buildings (more than 1,000 square feet) if associated with a residential development for use as a carport, garage, or clubhouse and supports multiple buildings being allowed on one lot for the purpose of the residential development under one ownership for Lot 1, Block 1 of the PUD. They discussed that each phase of development for the other 15 acres/4 lots would require an amendment for the purpose of reviewing a complete master development plan as required for a planned unit development. They indicated approval of this request should be to only the Field Stream Way apartment project.

Council discussion followed.

Councilperson Talkington asked for clarification as to why the platting requirement would be eliminated, as requested by the applicant.

Zoning & Development Manager Carraway stated that this is a standalone single lot. The code allows for only 1 building per lot. Development of the apartment complex as presented would require Lot 1 Block 1 be replatted into several lots to allow for each building. Development of the project as presented would make it difficult to meet infrastructure and required site improvement requirements. To allow the project to be developed under single ownership is something that has been allowed under other PUD's. This can allow for more creative development including clustering within that project and larger common landscaping/playground areas or some other amenities within the PUD that normally would be found on just a single lot of land with a single building.

Councilperson Mills Sojka stated that a public hearing was held on the Field Stream Way Subdivision, which is zoned R-2. The subdivisions that surround the area are R-2, agricultural and undeveloped C-1. She asked if this is the same land that was vacated on Field Stream Way R-2 Subdivision and replaced it with the new PUD.

Zoning & Development Manager Carraway, using overhead projections, showed the location of the development and stated that this is not the same property.

Councilperson Barigar asked for clarification of the minimum of 15% and a maximum of 85% of the entire to be residential development.

Zoning & Development Manager Carraway explained that the comprehensive plan has the property designated as an urban village land use, which is a mixed use requirement. The proposed development is required to meet a minimum of 15% to a maximum 85% be residential development which supports a requirement of multi-use development. The way the PUD is worded it is interpreted that each lot be required to meet the 15%-85% residential development requirement. If this request is approved as presented the balance of the 20 acres will have to meet the 15% residential with a maximum of 85% rule and not each lot.

Councilperson Barigar asked for clarification on the Commission's recommendation of requiring a water/sewer modeling, prior to the development of the remaining property.

Zoning & Development Manager Carraway stated that the Engineering Department determined that because of the water/sewer modeling that took place in 2006, that it may cover the proposed development. Staff will confirm that the modeling covers the proposed development.

City Manager Rothweiler stated that the property was originally modeled as an R-2 zone under the Golden Sun Subdivision and at that time it was given about 70 residential sewer equivalent units. This proposed subdivision has never been submitted for development. According to City Engineer Jaqueline Fields and Assistant City Engineer Troy Vitek, there are 70 residential sewer equivalent units that are assigned to the 20 acres. The density will use about 60 units, so there are 10 residential sewer equivalent units for the balance of the 15 acres, if the project that is being proposed, as part of the PUD, actually uses 1 sewer equivalent for each dwelling. The developer can go forward and have the project remodeled after that piece of the project is completed to determine if it was a 1 to 1 use or if it was something less than, bringing up the total balance of sewer credits that had been assigned to its 20 acres in its totality.

Acting Mayor Hall asked for clarification that legal notification to property owners within 300' of the project amounted to only one person.

Tim Vawser explained that between 7 and 8 notifications were sent out.

Councilperson Mills Sojka asked if the project would be considered affordable housing.

Tim Vawser stated that the hearing tonight is separate from the hearing regarding affordable housing. He stated that the projects are related.

Kathryn Amberg, The Housing Company, an affiliate with Idaho Housing and Finance Association, explained that the project is workforce housing and is not subsidized housing. All the residences have to pay rent. Rents are based on 60% or below of the Area Median Income which is set by HUD.

Councilperson Mills Sojka asked staff if the only access to the property is Field Stream Way, and the only access into the City would be North College Road. She asked if staff had concerns of traffic congestion.

Zoning & Development Manager Carraway answered in the affirmative regarding accesses. Cheney will be connected to Grandview, which will be an access point. As far as the Engineering Department is concerned, the development of the project is on its way to be part of the project that will help with the traffic congestion. At this point, there is only one access to the development. If further development occurs within this project, Cheney would be required to be built. Creekside Way will ultimately go up to Pole Line Road.

Councilperson Talkington asked if the applicant satisfied the notification requirement by sending the notification to Field Stream Association mailing address.

City Attorney Wonderlich answered in the affirmative.

Zoning & Development Manager Carraway stated that in regards to the notification process, the Local Planning Act requires notification be sent to property owners within 300' for public notice.

Acting Mayor Hall opened and closed the public testimony of the public hearing.

Councilperson Hawkins asked for clarification as to how many people attended the Planning & Zoning Commission public hearing in support of the project.

Zoning & Development Manager Carraway stated that one person attended the meeting who spoke in favor of the request.

Tim Vawser stated that in regards to utilities, the developers are fully aware that they are limited to capacity and fully support the capacity they have for the first phase of development within through the PUD. He reemphasized his request to add to staff comments to allow through the Special Use Permit process the ability for the Planning & Zoning Commission to have the opportunity to look at anything that the applicant might propose in the future rather than taking staff's recommendations that the PUD amendment is limited to the Field Stream Apartment project.

Councilperson Barigar asked Tim Vawser if he was not supportive of Item #4 in the recommendations having proposed amendments applied only to the Field Stream Apartment project.

Tim Vawser stated that within the verbiage of the PUD Amendment they would ask this would be outright allowed for Lot 1 Block 1 as staff report/commission recommends and/or by SUP for any other lot within the PUD.

Zoning & Development Manager Carraway stated in summary the request was submitted requesting the following amendments to the PUD:

1. The applicant would like to be able to construct any residential accessory structure and a clubhouse without having to go through a special use permit process.
2. The applicant would like to develop the proposed apartment complex, including carports and a clubhouse for the tenants, on one lot, eliminating the requirement for platting.
3. The applicant would like to develop this residential apartment project as a 100% residential development. The total PUD would still need to meet the 15%-85% ratio
4. The applicant would like to develop this project with "exterior siding that is harmonious with residential development".

The Commission recommended that items 1. and 2. be limited to the apartment project consisting of five acres, as presented, and Items 3. and 4. be incorporated in the entire PUD.

The Commission's main concern is that under a PUD, a master development plan is part of the approval process. This original PUD did not have a development plan submitted. In addition, the Commissioners want to have a review, through the public process, for each development that comes through. the Commissioner's intent would be that it come back through a master development plan review for each development that comes forward. There wasn't any kind of consideration for a SUP by the commission at the public hearing. Tim Vawser is asking for a SUP approval blanket through the whole project.

Discussion followed on the formation of a motion.

The public hearing was closed.

Council deliberations: None.

MOTION:

Councilperson Talkington made the motion to approve the PUD Amendment to the WS&V – R-6 PRO Planned Unit Development Agreement subject to the inclusion of the four numbered conditions proposed by the Planning & Zoning Commission, and inclusive in number 4., four sub-items to be called a. b. c. d. Items a and b applying to five acres to the proposed PUD; and, c and d applying to the full 20 + acre subdivision PUD. The motion was seconded by Councilperson Barigar.

Councilperson Mills Sojka stated her concern of traffic congestion. There would be one access to Field Stream Way going onto North College. She stated that she could not support the changes in the PUD allowing this type of development without there being some sort of condition of another access. The Land Use Planning Act outlines the need of infrastructure to support development, which is the basis of her concern.

Acting Mayor Hall reopened the public hearing.

Minutes

October 22, 2012

Page 7 of 7

City Manager Rothweiler stated that when going through the budgeting process, the City allocated \$160,000, for the Cheney Drive extended project. The City's portion of the project connects Grandview to Field Stream Way. Former City Manager Tom Courtney entered into a memorandum of understanding with other developers to have Cheney Drive constructed over the course of the current fiscal year. The City is a financial partner of approximately \$160,000, and the other partners are also financial individuals. In speaking with Doug Vollmer, he shared that their portion of the construction will begin where the City's portion runs off and will connect to Field Stream Way.

Acting Mayor Hall asked if there will be a portion of Field Stream Way that will not connect to Cheney.

Tim Vawer stated that a small portion between the northern boundary of the Field Stream Apartments and Cheney Drive would be left undone at this point. He stated that developers in the area appear to be interested in connecting Field Stream Way to Cheney.

Councilperson Mills Sojka stated she would like to see a condition of two access points.

Councilperson Talkington stated that in regards to new subdivision platting, roads very seldom meet the current needs. The natural attraction of the area will encourage development and the partnershiping between private parties and the City will encourage development of another access.

Acting Mayor Hall closed the public hearing portion of the meeting.

Roll call vote showed Councilpersons Barigar, Hall, Hawkins, Munn, and Talkington voted in favor of the motion. Councilperson Mills Sojka voted against the motion. Approved 5 to 1.

V. ADJOURNMENT: The meeting adjourned at 7:01 P.M.

Leila A. Sanchez
Deputy City Clerk/Recording Secretary

AMENDMENT TO WS&V P.U.D.

R-6 PRO PLANNED UNIT DEVELOPMENT AGREEMENT #263

THIS AGREEMENT, made and entered into this ____ day of _____, 20____ by and between the CITY OF TWIN FALLS, a municipal corporation, State of Idaho (hereinafter called "City"), and WS&V, LLC (hereinafter called "Developer"), whose address is PO Box 31., Twin Falls, Idaho 83303-0031.

WHEREAS, "Developer" is the owner of the certain tract of land in the City of Twin Falls, State of Idaho, more particularly described in Exhibit "A", attached hereto, (hereinafter called the "Property") which Property is located 450 (+/-) feet north and west of the intersection of North College Road and Field Stream Way.

WHEREAS, the City entered into a R-6 PRO Planned Unit Development Agreement (hereafter called the "PUD") with the "Developer" on April 2, 2012, for the development and use of the "Property".

WHEREAS, "Developer", has requested an amendment to PUD Agreement #263 – WS&V R-6 PRO PUD Agreement to allow a 60 unit residential apartment complex on 5 acres located within the "Property" and subject to conditions as approved by the City Council at a public hearing held on October 22, 2012.

NOW, THEREFORE, the parties agree as follows:

The request for an amendment to the WS&V R-6 PRO PUD Agreement was heard by the City Council on October 22, 2012 and they approved the request, as presented, with the following conditions:

- 1. Subject To Amendments As Required By Building, Engineering, Fire, And Zoning Officials To Ensure Compliance With All Applicable City Code Requirements And Standards And The WS&V Amended PUD Agreement #263, as approved.**
- 2. Infrastructure Modeling Is Not Required For Lot 1 Block 1, WS&V Subdivision-A PUD. Future Infrastructure Modeling May Be Required Upon Future Development Of Remaining Undeveloped Property With The WS&V R-6 PRO PUD.**
- 3. Subject To The Final Plat Of The WS&V Subdivision, A PUD and the WS&V R-6 PRO Amended PUD Agreement, Being Recorded Prior To Any Development. "**
- 4. The PUD Amendment Is Approved, as presented, subject to the following 4 amendments: (See attached Amended Exhibit "C"):**
 - a. Detached accessory buildings (more than 1,000 sq ft) located within the 5 acre Field Stream Apartment Project, as approved, may be permitted if associated with residential development, for uses such as carports, garages or a clubhouse for use by the tenants.**
 - b. Within the 5 acre Field Stream Apartment Project, as approved, multiple buildings may be allowed on one lot which shall all remain under single ownership.**
 - c. A requirement of a minimum 15% and a maximum of 85% of development within the entire 20 (+/-) acre WS&V PUD shall be classified as residential, as per Exhibit "C".**
 - d. Wood or cementitious materials (e.g. hardie board) shall be allowed as an exterior building material within the entire 20 (+/-) acre WS&V PUD.**

IN WITNESS WHEREOF, The parties have executed this agreement by
and through their authorized representatives.

CITY OF TWIN FALLS

BY: Greg Lanting, Mayor

BY: Doug Vollmer, representative for WS&V, LLC

ACKNOWLEDGEMENTS

STATE OF IDAHO)
 :ss.
COUNTY OF TWIN FALLS)

On this ____ day of _____, 20__, before me, a Notary Public in and for said County and State, personally appeared **Greg Lanting, Mayor of the City of Twin Falls,** known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing at _____ Idaho
My commission expires: _____

STATE OF IDAHO)
 :ss.
COUNTY OF TWIN FALLS)

On this ____ day of _____, 20__, before me, a Notary Public in and for said County and State, personally appeared **Doug Vollmer, representative of WS&V, LLC** known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing at _____ Idaho
My commission expires: _____

STATE OF IDAHO)
 :SS.
COUNTY OF TWIN FALLS)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared _____ known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing at _____ Idaho
My commission expires: _____



Date: Monday, February 04, 2013
To: Honorable Mayor and City Council
From: Mitch Humble, Community Development Director

Request:

Consideration of a request to reappoint members of the Twin Falls Building Inspection Department Advisory Committee.

Time Estimate:

The staff presentation will take approximately 2 minutes.

Background:

James Ray, Scott Standley, and Jay Reis are all at the end of their terms on the Building Inspection Department Advisory Committee. All three have completed their first terms and all three are eligible for reappointment. They have all requested to be reappointed.

This committee has been established with very specific membership requirements due to the technical nature of their activity. The Committee is tasked to advise the Building Official with building related policy and building code interpretation. The Committee also can hear and decide on appeals to the Building Official's interpretation of the building codes. Therefore, committee members need to have some knowledge of building codes and building practices. James is one of the Committee's two required residential contractors, Scott is the Committee's at-large resident, and Jay is the Committee's required plumber.

Mayor Lanting, Councilman Munn, Building Official Thomson, and I have reviewed the requests for reappointment. They all have great attendance records and have provided valuable input into the actions of the Committee. Based on their attendance records and the valuable contributions, we recommend reappointing James, Scott, and Jay.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request.

Regulatory Impact:

Approval of this request will keep the Committee at full membership.

Conclusion:

The Mayor and staff recommend that the Council reappoint James Ray, Scott Standley, and Jay Reis to the Building Inspection Department Advisory Committee, for terms to expire in March 2016.

Attachments:

None



Date: February 4, 2013, City Council Meeting

To: Honorable Mayor and City Council

From: Elisha Figueroa, Idaho Office of Drug Policy

Request:

Presentation by Elisha Figueroa from the Idaho Office of Drug Policy.

Time Estimate:

Elisha Figueroa will make the presentation; it will take approximately 20 minutes. Following the presentation, we expect some time for questions and answers.

Background: Presentation on the outlining facts surrounding the issue of medical marijuana.

Approval Process:

There is no approval process.

Budget Impact:

There is no budget impact.

Regulatory Impact:

There is no regulatory impact.

Conclusion:

There is no action required by the City Council.

Attachments: Drug Policy and Prevention and "Medicinal" Marijuana - The Facts

ODP PARTNERS

- Idaho Governor's Office
- Office of National Drug Control Policy
- Idaho Department of Health & Welfare
- Idaho Prevention and Treatment Research
- Idaho Dept. of Education
- Idaho Transportation Dept.
- Idaho Department of Juvenile Corrections
- Idaho Department of Corrections
- Idaho State Liquor Division
- Idaho State Senate
- Idaho House of Representatives
- Idaho Criminal Justice Commission
- Behavioral Health Interagency Committee
- Idaho State Police
- Boise Police Department
- Meridian Police Dept.
- DEA
- Idaho Crime Prevention Association
- POST
- Boise State University
- Idaho State University
- Idaho Board of Medicine
- Idaho Board of Nursing
- Idaho Board of Pharmacy
- Idaho Board of Dentistry
- Idaho Assoc. of Counties
- Idaho Medical Association
- Idaho Hospital Association
- Nurse Practitioners of Idaho
- Regional Advisory Committees (RAC's)
- PATR
- ID Prosecutors Association
- Boise City Attorney's Office
- City of Boise Public Works
- Community Coalitions of Idaho
- Regional Alcohol and Drug Awareness Resource

DRUG POLICY AND PREVENTION

MISSION: The Idaho Office of Drug Policy leads Idaho's substance abuse policy and prevention efforts by developing and implementing strategic action plans and collaborative partnerships to reduce drug use and related crime, thereby improving the health and safety of all Idahoans.

VISION: The Idaho Office of Drug Policy envisions an Idaho free from the devastating social, health, and economic consequences of substance abuse.

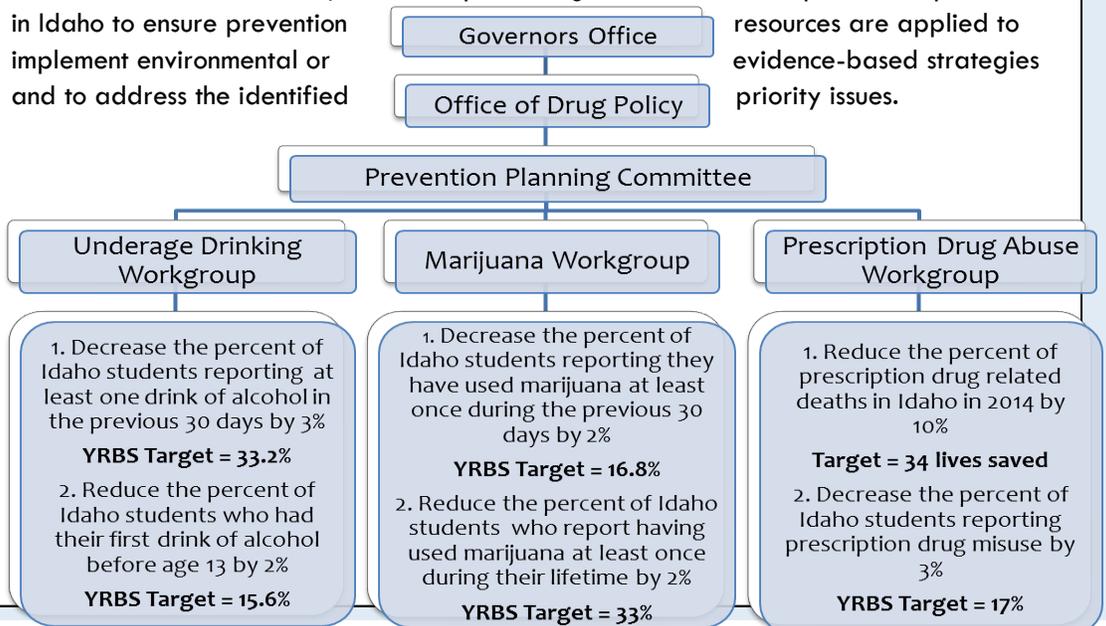
- ◇ Collaborate with over 50 partners on substance abuse issues
- ◇ Manage BeTheParents.org, Idaho's Underage Drinking Prevention Campaign
- ◇ Direct the Strategic State Prevention Planning Committee and its three prevention workgroups on Prescription Drug Abuse, Marijuana, and Underage Drinking
- ◇ Prepare the Idaho State Drug Prevention Strategy
- ◇ Collect, research and provide drug trend information to stakeholders and the public
- ◇ Research and study state and national drug policy and make relevant recommendations to Idaho's elected officials
- ◇ Serve as the repository for effective substance abuse prevention programs

2013 Legislative Session Update



IDAHO STRATEGIC STATE PREVENTION PLAN

This document will be created by the Strategic State Prevention Planning Committee and its associated workgroups on underage drinking, marijuana and prescription drug abuse. Under the direction of ODP, the action plan will guide the efforts of prevention providers in Idaho to ensure prevention resources are applied to evidence-based strategies and to address the identified priority issues.



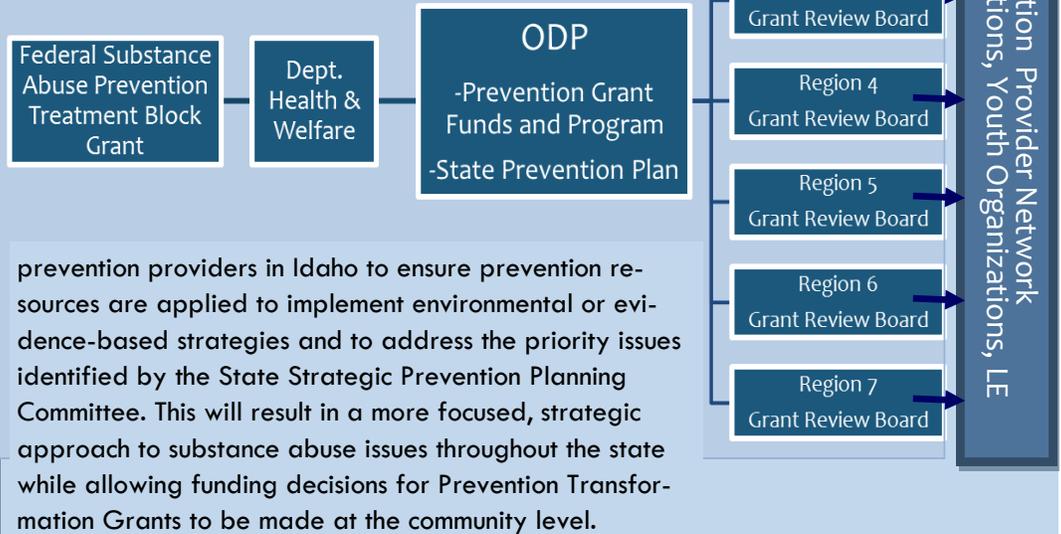
ODP PARTNERS

- Treasure Valley Alcohol and Drug Coalition
- Bonneville Youth Development Council
- Idaho Drug Free Youth
- Enforcing Underage Drinking Laws
- Drug Free Idaho
- MADD
- Say No Idaho
- Project Filter
- Idaho Meth Project
- Meridian Mayor's Anti-Drug Coalition
- Kootenai Alliance for Children and Families
- Kamiah Community Partners Coalition
- Idaho College Health Coalition
- NW Alcohol and Substance Abuse Conference
- Idaho Conference on Alcohol and Drug Dependency
- Supportive Housing and Innovative Partnerships
- Leadership to Keep Children Alcohol Free
- Idaho Beer and Wine Distributors Association



IDAHO PREVENTION BLOCK GRANT

Beginning July 1, 2013, the Substance Abuse Prevention Treatment Federal Block Grant funds that the Department of Health & Welfare receives for prevention efforts will be passed down to the Office of Drug Policy to fund the Prevention Transformation Grants Program. During this next year the grant program will be transformed with the goal of having a new model in place by FY 2015. This new model will guide the efforts of



prevention providers in Idaho to ensure prevention resources are applied to implement environmental or evidence-based strategies and to address the priority issues identified by the State Strategic Prevention Planning Committee. This will result in a more focused, strategic approach to substance abuse issues throughout the state while allowing funding decisions for Prevention Transformation Grants to be made at the community level.

ODP FY 2014 GOVERNOR'S RECOMMENDATION

IDAHO OFFICE OF DRUG POLICY

Elisha Figueroa, Administrator
304 North 8th St. Room 455
Boise, ID 83720

Phone: 208-854-3040

Fax: 208-854-3041

Email: elisha.figueroa@odp.idaho.gov



odp.idaho.gov

FUNDING SOURCE	FY 2014 TOTAL REQUEST
GENERAL REVENUE FUND	\$288,200
PERSONNEL (3.00 FTP)	\$234,000
OPERATING	\$54,200
DEDICATED	\$6,200
FEDERAL PREVENTION GRANT	\$1,813,000
PERSONNEL (1.00 FTP)	\$79,000
OPERATING	\$470,500
TRUSTEE AND BENEFIT	\$1,258,000
CAPITAL OUTLAY	\$5,500
TOTAL	\$2,107,400



“Medicinal” Marijuana The Facts



MARIJUANA IS NOT MEDICINE...

Regardless of state laws to the contrary, there is no such thing as “medical” marijuana from the federal government’s perspective. Marijuana is a schedule I drug (under the Controlled Substances Act) meaning that it has no medical use and high potential for abuse.

The FDA has reviewed the scheduling of marijuana several times and has ruled that the raw marijuana plant is not a medicine. All medicines in this country are approved through the scientific process via the Food and Drug Administration, not through political campaigns.

The American Medical Association, American Academy of Pediatrics, National Institutes of Health, Institute of Medicine, American Cancer Society, National Cancer Institute, National Multiple Sclerosis Society, American Glaucoma Society, American Academy of Ophthalmology do not support smoked marijuana as medicine.

Marinol, an FDA approved medication with synthetic THC as the active ingredient, is already widely available in pill and other forms through a physician’s prescription. There are over 100 DEA-registered researchers eligible to study marijuana, marijuana extracts, and cannabinol marijuana derivatives that exist in the plant. Two cannabinoid-based medicines, Cesamet and Sativex, are nearing FDA approval.

No medicine is smoked. Marijuana smoke contains 50-70% more cancer-causing agents than smoked tobacco.⁴ Smoking any drug is an unsafe delivery system that produces harmful effects, according to the Institute of Medicine.

MARIJUANA IS ADDICTIVE AND HARMFUL...

Marijuana use is associated with dependence, respiratory and mental illness, poor academic performance, and impaired cognitive and immune functioning, among other negative effects.

Individuals who have used marijuana at least 5 times have a 20-30% likelihood of becoming addicted to the drug and those who use it regularly have a 40% likelihood of becoming addicted.¹

In 2007, 68% of youth in treatment nationally were there for marijuana use²

“Medical” marijuana states are clustered at the top of the list in terms of drug addiction and abuse among 12-17 year olds.³ More teens have been admitted to treatment for marijuana than any other substance, including alcohol.

The American Psychiatric Association has long recognized cannabis dependence as a valid and reliable psychiatric disorder in the Diagnostic and Statistical Manual of Mental Disorders.



"MEDICAL" MARIJUANA SYSTEMS ARE OVERRUN WITH FRAUD...

70% of California medical marijuana cardholders are under 40.³

"Large commercial operations cloak their moneymaking activities in the guise of helping sick people when in fact they are helping themselves." Benjamin B. Wagner, United States Attorney for the Eastern District of California

"The California marijuana industry is not about providing medicine to the sick. It's a pervasive for-profit industry that violates federal law. In addition to damaging our environment, this industry is creating significant negative consequences, in California and throughout the nation. As the number one marijuana producing state in the country, California is exporting not just marijuana but all the serious repercussions that come with it, including significant public safety issues and perhaps irreparable harm to our youth." Laura E. Duffy, United States Attorney for the Southern District of California.

In August 2010, Colorado Attorney General John Suthers said: "Anybody who doesn't think there's abuse going on has to be pretty naive. We don't have 108,000 people with debilitating medical conditions." One year later, Colorado had 127,000 registered "medical" marijuana cardholders.

CURRENT "MEDICAL" MARIJUANA STATES ARE EMBROILED IN LEGAL BATTLES...

States that adopt "medicinal" marijuana programs operate these programs in violation of federal laws, subjecting both state employees and citizens to federal prosecution.

"Medical" marijuana activists have discovered that cities, counties, and states can be forced to surrender to their pro-drug agenda through endless litigation. After spending \$200,000 in a failed attempt to ban medical marijuana dispensaries, Garden Grove, California's city manager said, "They've got more money than everybody to throw at this, and they are just determined to sue on every matter.... We feel like we are caught in the middle."⁵ In Lake Forest, California, officials spent nearly \$1 million on lawyers in an unsuccessful attempt to shut down more than a dozen dispensaries.⁵

TAXING MARIJUANA WILL NOT HELP OUR ECONOMY...

Any taxes collected by states or cities on the sales of marijuana (or income taxes on marijuana businesses) are subject to seizure by the federal government (because they are proceeds of illegal drug trafficking), so any "revenues" collected by states or cities are illusory at best. Even if Idaho could legally tax marijuana, any tax revenues collected would pale in comparison to the social and health costs related to its use. Federal and state alcohol taxes raise \$14.5 billion yearly. This covers only about 6% of alcohol's total cost to society.³

LEGALIZATION WILL NOT CONTROL ACCESS...

After Colorado legalized medical marijuana, 83% of teens using marijuana daily report obtaining it from a medical marijuana patient.³

Around the nation, the abuse of prescription drugs, some of the most tightly controlled substances in our country, is exploding among youth and adults. Clearly, legalizing a drug does not control access to it.



MARIJUANA IS A SIGNIFICANT THREAT TO PUBLIC SAFETY...

Marijuana is the most prevalent illegal drug detected in impaired drivers, fatally injured drivers, and motor vehicle crash victims.³ In 2009, 28% of all fatally injured drivers tested positive for marijuana use.⁶ More people driving on weekend nights were under the influence of marijuana (8.3%) than alcohol (2.2%).⁸

Teens who use marijuana are more likely than non-users to engage in delinquent and dangerous behavior.⁷

"MEDICINAL" MARIJUANA LEADS TO INCREASED USE BY YOUTH...

"Emerging research reveals potential links between state laws permitting access to smoked medical marijuana and higher rates of marijuana use . . . In light of what we know regarding the serious harm of illegal drug use, I urge every family - but particularly those in states targeted by pro-drug political campaigns - to redouble their efforts to shield young people from serious harm by educating them about the real health and safety consequences caused by illegal drug use." Director Gil Kerlikowske, Office of National Drug Control Policy.

Marijuana advocates have undone decades of drug education in America by creating a popular culture that teaches our youth that "tobacco smoke kills but marijuana smoke heals." This is a national tragedy.

IT IS EXCEEDINGLY RARE TO BE INCARCERATED IN THE U.S. FOR THE POSSESSION OR USE OF MARIJUANA...

According to the National Center on Addiction and Substance Abuse at Columbia University, less than 1% (0.9%) of jail and prison inmates in the US were incarcerated for marijuana possession as their sole offense.¹

"MEDICINAL" MARIJUANA DISPENSARIES WILL NEGATIVELY IMPACT OUR COMMUNITIES...

In Colorado and California there are more medical marijuana dispensaries than Starbucks.³

IDAHO HAS BEEN TARGETED BY NATIONAL PRO-DRUG LOBBYING ORGANIZATIONS FOR 2012...

Powerful pro-drug lobbying organizations in Washington D.C. have targeted Idaho for defeat in 2012. These groups have previously invested millions of dollars in convincing voters and legislators to adopt laws that have brought social, economic, and legal chaos to other states.⁹



COMMUNITY
COALITIONS
I D A H O





REFERENCES..

1. National Association of Drug Court Professionals, "The Facts on Marijuana," December 2010, Douglas B. Marlowe, J.D., Ph.D.
2. Substance Abuse and Mental Health Services Administration, "Highlights for the 2007 Treatment Episode Data Set"
3. Community Anti-Drug Coalitions of America, "Considerations for Addressing Medical Marijuana," July 2011
4. Office of National Drug Control Policy, "Marijuana: Know the Facts," October 2010
5. Garrison, Jessica, "Cities Seek an Antidote to Medical Marijuana," Los Angeles Times, November 15, 2011, <http://www.latimes.com/news/local/la-me-pot-cities-20111115,0,3370978.story>
6. Cesar Analysis of 2009 National Highway Transportation and Safety Administration FARS Data
7. Drug Enforcement Administration, "DEA Position on Marijuana," July 2010
8. National Highway Traffic Safety Administration Report, 2009
9. Marijuana Policy Project, December 12, 2011, https://secure2.convio.net/mpp/site/Donation2?2562.donation=form1&df_id=2562

For more information on medicinal marijuana in Idaho or Idaho drug policy contact the Idaho Office of Drug Policy at:

Website: www.odp.idaho.gov

Phone: (208)854-3040

Email: info@odp.idhao.gov



Date: Monday, February 4, 2013, City Council Meeting

To: Honorable Mayor and City Council

From: Dennis J. Bowyer, Parks & Recreation Director

Request:

Presentation of the City Pool Financial Report by Gary Ettenger, CEO of the YMCA.

Time Estimate:

Gary Ettenger will make the presentation; it will take approximately 10 minutes. Following the presentation, we expect some time for questions and answers.

Background:

As part of the Concession Agreement between the City and the YMCA, an annual financial report is to be presented to the City Council. These reports of pool operations shall include all City Pool revenues, expenses, and attendance. Overhead charges shall be explained in detail and justified. City Pool revenues shall include daily admissions, annual pool passes, seasonal memberships, and that portion of overall Y memberships that are attributable to the City Pool.

Since the new concession agreement started in September 2011, staff and the YMCA decided to wait a full year under the new concession agreement before the YMCA would present the report.

City staff and Council members have met with the YMCA to figure out how full membership revenue should be credited as the pool revenue. The Y has memberships just for the pool and memberships for usage of all three of their facilities.

Last year the YMCA used a percentage of visits to the pool by full membership members compared with their other two facilities visits. The question is this the best and fairest way to figure out that revenue from full membership as part of the pool revenue? Staff, Council members and the YMCA met again to discuss this issue: the YMCA presented three (3) scenarios to discuss. Both sides have agreed to use the highest daily admission at the pool (\$4 for adults) and multiply that by the total number of visits by full membership members for the revenue that is credited to the pool. In future years, staff and the YMCA plans to use this method of crediting revenue to the pool from the YMCA's full membership revenue to be consistent from year to year.

John Pauley, Aquatics Director for the YMCA presented this report to the Parks and Recreation Commission at their December meeting. John Pauley, staff, and Council Liaison Shawn Barigar explained to the Commission the new accounting method on how a portion of the YMCA's full membership revenue would be credited to the pool. The Commission appreciated the effort staff and the YMCA has put into figuring out a fair and equitable way for a portion of the YMCA's full membership revenue would be credited to the pool. The Commission had some questions on the bank charges the YMCA was charging as expenditures to the pool. Approximately 25% of total revenue for the YMCA is from the operations of the pool, so the YMCA charges as expenditure to the pool 25% of their bank charges. The majority of those bank charges are for fees associated with the use of credit/debit cards.

Approval Process:

There is no approval process associated with this presentation.

Budget Impact:

There is no immediate budget impact associated with this presentation.

Regulatory Impact:

There is no regulatory impact associated with this presentation.

Conclusion:

This is a presentation by the CEO of the YMCA. No action is necessary.

Attachments:

YMCA's Financial Report from September 1, 2011 – August 31, 2012
Concession Agreement – City Pool

**Y/City Pool
 Profit & Loss
 September 2011 through August 2012**

	<u>Sep '11 - Aug 12</u>	
City Pool Revenue		
City of Twin Falls - Co-Op	119,982.10	
Daily Admissions	68,354.09	
Pool Rentals	7,942.76	
Safety Classes	4,373.00	
Sales - CP	4,409.44	
Swim Lessons	59,645.24	
Swim Team Y	12,225.00	
City Pool Revenue - Other	165.00	
Membership - CP	68,441.70	
Memberships - YMCA	<u>106,612.00</u>	\$4 Average. See Explanations #1.
Total Income	<u>452,150.33</u>	
Expense		
Accounting & Legal	247.50	
Bank Charges 25% of total	9,435.14	25% of total bank charges that the Y incurred.
Repairs/Maintenance	7,366.90	Only CP
Food	669.37	Bubble Up & Down
Janitorial Supplies	6,601.26	25%
Liability Insurance	3,000.00	33%
Office Expenses	5,907.69	25%
Payment to Affil Org	1,320.00	33%
Professional Salaries	31,150.04	AD 85%. See Explanations #2
Health Insurance % adjusted for each	7,536.43	15% CEO. 33% HR Dir., Desk Man., Mem. Cord., Acc. & Marketing Dir. See Explanations #2.
Administrative costs	46,591.24	Same as above. See Explanations #3
Retirement % adjusted for each	5,005.36	Same as above. See Explanations #3
Aerobic Instructor Wages	16,873.17	Only CP
Clerical Wages	38,128.37	Only CP
Lifeguard Wages	83,784.49	Only CP
Janitorial Wages	6,431.56	Only CP
Swim Lesson Wages	35,104.32	Only CP
City Pool - Other	1,155.95	Overtime, Sick & Vacation time.
Payroll Tax Expenses - FICA 7.65%	19,830.26	Only CP
Payroll Tax - Unemployment 3.360%	9,331.89	Only CP
Pool Chemicals	21,869.74	Only CP
Program Supplies	4,056.23	Only CP
Advertising	11,308.08	33%
Product Supplies	2,028.23	25%
Uniforms - Lifeguards	1,873.29	Only CP
Utilities	63,659.86	100% Gas, Electric, Security System & 33% of Internet
Workmans Comp 1.27%	3,292.08	Only CP
Total Expense	<u>443,558.45</u>	
Net Income	<u>8,591.88</u>	

September 1, 2011 – August 31, 2012 Financial Explanations and Program Numbers

Financial Explanations

- * There were 26,653 YMCA Members that visited the pool from September 1, 2011 – August 31, 2012.
 - o We used the \$4 daily admission fee for adults because it is the highest admission fee and we know it cannot be higher than that. Multiplying 26,653 visits by \$4 it equals \$106,612 for the year period.
- ** Administrative costs & professional salaries are the percentage of each staff member's salary that was applied towards the pool. They are 85% for the Aquatics Director, 15% for the CEO, 33% for the Bookkeeper, 33% for the Membership Coordinator, 33% for the Marketing Director and 33% for the Front Desk Supervisor.
- *** Health Insurance and Retirement were calculated for the above staff and the Aquatics Director (85%) based off of the same percentages.

Program Numbers

- Lap & Open Swim Visits
 - o YMCA Members: 26,653
 - o Y/City Pool Members: 11,784
 - o General Admission: 20,781
 - o Total: 59,218
- Swim Lesson Participants
 - o Junior Lifeguard Camp: 28
 - o 3rd Grade Swim Program: 76
 - o Water Babies: 84
 - o 2nd Annual Dr. David Webster Free Spring Break Swim Lessons: 160
 - o Elite Swim Lessons: 299
 - o Swim Lessons: 1,165
 - o Total: 1,812
- Swim League
 - o Fall & Winter: 60
 - o Summer: 104
 - o Total: 164
- Safety Certification Classes
 - o Lifeguard Classes: 25
 - o Water Safety Instructor Classes: 8
 - o Total: 33

COPY

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT, made and executed this 31st day of August, 2011, by and between the City of Twin Falls, a municipal corporation of Idaho, hereinafter referred to as "City" and The YMCA of Twin Falls, Inc., hereinafter referred to as "the Y";

WITNESSETH:

WHEREAS, the City has heretofore granted a Concession Agreement in the City Pool, owned by the City and located within the corporate limits; and

WHEREAS, the Mayor and City Council have determined that it is in the community's best interest to continue said Concession Agreement to operate and manage the pool; and

WHEREAS, the City requested proposals from individuals/entities interested in entering into a Concession Agreement with the City; and

WHEREAS, the Y was selected by the City Council as having a qualified proposal and instructed staff to begin negotiations on a proposal that will be mutually acceptable to both parties.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. GRANT OF CONCESSION. The City hereby grants to the Y the exclusive privilege or Concession of maintaining and operating the City Pool owned by the City and located within the corporate limits. During the period commencing September 1, 2011 and ending August 31, 2018, the Y shall maintain and operate the City Pool in accordance with the terms and conditions that follow herein. This Agreement may be renewed upon terms mutually agreed to by both parties. The City and the Y agree to review the terms of this contract at any time during the term of this Agreement, at the request of either party.

2. USE FOR AQUATIC RECREATIONAL PROGRAMS. The Concession premises and the facilities, fixtures, furnishings, and equipment located therein and thereon shall be used by the Y to conduct aquatic recreational programs for the citizens of Twin Falls and for other pool patrons. The Y may occasionally use the facilities for other activities, including parties, events, swim meets or other activities that are consistent with the operation of a public pool.

3. PAYMENT TO THE Y. The City shall pay the Y an operation and management fee of \$120,000 per year, payable in monthly installments of \$10,000.00 on the first day of each month beginning on September 1, 2011. Payments shall continue throughout the term of this agreement.

4. OPERATION. The Y shall be responsible for the operation and management of the City Pool in a manner that promotes longevity and meets any applicable state regulations.

The Y shall review, and update as necessary, the operations manual for the pool in order to ensure proper operation and maintenance. The pool operations manual shall be readily accessible. The operations manual shall include instructions for such items and maintenance schedules, records and reports, water chemistry, accidents, emergency procedures, care of filters, operation of pumps and other equipment, and the proper handling and storage of all chemicals used. The operations manual shall be reviewed for continued applicability and updated as necessary annually, beginning on the anniversary of the commencement of this agreement.

5. ADMISSION FEES AND REVENUE. The Y shall collect and retain fees for the use of the pool by the public. The Y shall keep posted at the pool, and include in a yearly informational booklet, a schedule of rates for all pool activities and programs. Water aerobics, lap swim, and open swim, are included programs in a Y membership and City Pool pass.

The fees charged by the Y shall not exceed the fees set forth on "Exhibit A" attached hereto and incorporated herein. Any changes to the admission fees or pool passes must be approved by the Pool Aquatics Advisory Board (discussed in section 7 below). The Board may provide for an annual increase in the maximum fee not exceeding 5% per year. Fee increase requests that exceed 5% per year shall be considered by the City Council following a recommendation by the Board.

6. POOL AQUATICS DIRECTOR. During the term of this Agreement, the Y shall employ a full time Aquatics Director who is familiar with the operation of the pool, is responsible for the health and safety of the public using the pool, and responsible for operating the pool and the Y/City aquatic programs. The Aquatics Director shall maintain at least one of the following certifications:

- Certified Pool Operator (CPO), National Swimming Pool Foundation

- Aquatic Facility Operator (AFO), National Recreation and Parks Association
- National Swimming Pool Institute (NSPI Tech 1), National Spa and Pool Institute

The operator and all lifeguards shall maintain all of the following certifications:

- Life Guarding
- Cardiopulmonary Resuscitation (CPR), and
- First Aid

The Y shall provide copies of current certifications upon request of the City Manager, or designee.

7. POOL AQUATICS ADVISORY BOARD. The City's Parks & Recreation Commission shall be appointed to perform the duties of a Pool Aquatics Advisory Board. In addition to regular Commission members, the following persons shall be ex-officio members when performing Board duties: City Manager or designee, the C.E.O. of the Y or designee, and the Aquatics Director. The purpose of the Board shall be to review citizen complaints and to advise and recommend to the City Council and the Y matters concerning the operations, aquatics programs and facility needs of the City Pool.

8. SCOPE OF CONCESSIONS TO BE PROVIDED. The scope of this Concession includes a License to go upon and use the Concession premises for the purpose of conducting a swimming program, with the necessary rights and responsibilities thereon.

A. Y Duties:

- (1) Provide swimming lessons, primarily to youth.
- (2) Provide aquatic fitness and therapy opportunities.
- (3) Provide open swim hours for the general public.
- (4) Provide lap swim hours for the general public.
- (5) Solicit, facilitate, and provide for swim meets and other special swim events.
- (6) Provide support and assistance for organized youth swim teams and associations.
- (7) Coordinate with the local high schools for team practices and meets.
- (8) Manage and oversee pool security.
- (9) Provide a safe environment for the swimming public and employees.
- (10) Promote and market the pool facility.

- (11) Assist with planning and execution (if possible) with any capital improvements and renovation to the pool facility.
- (12) Provide all necessary supplies, materials, equipment and appropriate staff necessary to manage, operate and maintain the pool facility.
- (13) Provide chemicals necessary to maintain water chemistry and provide staff to check water chemistry and perform adjustments as necessary.

B. Janitorial, Repairs, and Alterations:

- (1) The Y shall be responsible for the daily janitorial and cleaning of the City Pool, including, but not limited to, locker rooms, office, pool deck, wading pool, equipment, fixtures, and contents of the facility.
- (2) It is the intent of the parties that capital expenditures shall be the obligation of the City and the "day-to-day" maintenance costs shall be the obligation of the Y. For example, a remodel of the restroom facilities would be a capital expenditure but the repair of a sink or toilet fixture would be a "day-to-day" maintenance. Capital expenditure as used herein shall be defined as any expenditure that extends the life of a City facility, such as replacing the bubble, and includes structural damage repairs, the expansion of structures or systems, the remodel of structures or systems, the replacement of water heating or water quality equipment, and the complete asphalt overlay of the parking area. In the event of a dispute between the parties regarding the classification of an expense as either a 'day-to-day maintenance expense' or a 'capital expenditure', the parties agree to negotiate with each other in good faith to resolve the dispute in a fair and equitable manner.
- (3) The Y is required, at its sole cost and expense, to maintain and operate the pool facility in a good and safe condition in accordance with industry standards. This includes the maintenance and repair of the pool; all interior and exterior structures; building systems; utility systems and connections; equipment; restrooms; pool accessories (slide, ladders, etc...); lighting; and fixtures.
- (4) The Y shall be expected to provide an adequate staff to maintain the pool facility in excellent physical condition and appearance.

- (5) No permanent alterations shall be made to the pool facility without written approval from the City. Any such alteration approved by the City will become the property of the City upon termination of this agreement.

C. Utilities:

The Y shall pay all utility expenses for the operation of the pool, including telephone, electricity, and natural gas. The City will provide sanitation, water, and sewer utility services at no cost to the Y.

D. Days of operation:

The Concession premises shall be open to the public on Memorial Day, Independence Day, and Labor Day.

9. CITY TO MAINTAIN PREMISES. The City shall be responsible for the repair of the facility and equipment, including, but not limited to, pumps, motors, chemical feed equipment of the boilers, bubble blower unit, the bubble, the landscaping, the sprinkler system, pool water chemistry systems, the structural components of the plumbing electrical, and HVAC systems, the diving boards and fencing at the City Pool. The City will perform regular inspections of the facility and equipment described above. The City will also install and take down the seasonal cover, or bubble, each year.

The Y shall notify the City on a timely basis of facilities and equipment requiring repair. The City shall make all repairs on a timely basis and in a manner that minimizes impact on the use of the facility.

The City reserves the right to enter upon the Concession premises at any reasonable time in order to ensure compliance with the terms of this Concession Agreement. The City reserves the right to inspect, investigate, and survey the Concession premises as deemed necessary, and reserves the right to do any and all work of any nature necessary for preservation, maintenance, and operation of the premises. The Y shall be liable for all expenses incurred by the City for work done by the City in order to preserve, maintain, and operate the Concession premises, when, after giving notice of default, such work is necessary to remedy the Y's negligence or non-compliance with the terms of this Agreement.

10. FINANCIAL REPORTING. The Y shall provide to the Pool Aquatics Advisory Board and the City Council quarterly reports of pool operations and annual Y financial statements for the year ending Dec. 31, 2011, and annually thereafter. These reports of pool operations shall include all City Pool revenues, expenses, and attendance. Overhead charges shall be explained in detail and justified. City Pool revenues shall include daily admissions, annual pool passes, seasonal memberships, and that portion of overall Y memberships that are attributable to the City Pool.

11. FACILITIES USE AGREEMENT. In recognition of the Facilities Use Agreement and property lease that exists between the City and the Twin Falls School District #411 (T.F.S.D.) the Y shall give priority to the requests for use of the facility by all school affiliated programs and events, including but not limited to, swim clubs, physical education classes, P.T.A/O. groups, class parties and reward programs of the T.F.S.D. Additionally, contracts with T.F.S.D. and its programs for regularly scheduled pool space and times must be approved by the Pool Aquatic Advisory board prior to execution and before the start of the program when possible. The Board will respond by its next scheduled meeting or within 30 days from the date of request.

12. USE OF CITY'S FIXTURES, FURNISHINGS AND EQUIPMENT. The License granted hereunder includes exclusive right to manage and use the facilities, fixtures, and furnishings owned by the City and currently located on the Concession premises. All pool equipment can only be used on the pool facility or other City facilities. Said furnishings and equipment are listed in Exhibit "B", attached hereto and incorporated herein. The Y shall provide all additional facilities, fixtures, furnishings and equipment and personal property necessary for the operation of swimming and aquatic programs, not set out in Exhibit "B". Any such additional facilities, fixtures, furnishings and equipment and personal property not listed in Exhibit "B", but located at the pool facility, are property of the Y. At least once each year, a physical inventory of the City's fixtures, furnishings, and equipment shall be taken and a copy delivered to the City Parks and Recreation Director. The Y shall notify the City of any missing items or any discrepancies found regarding the inventory lists.

Upon termination of this Concession Agreement, all fixtures and furnishings owned by the City shall remain on the premises. The Y shall return all City-owned fixtures and furnishings

in as good of a condition as said fixtures and furnishings were in as of the date this Agreement, reasonable wear and tear excepted.

The City reserves the right to carry out any redesign, remodeling, reconstruction, or new construction on the Concession premises which it deems advantageous to the long-term operations of the facility, if such modification can be accomplished without substantial interference with the Y operations. Whenever possible, the City shall provide the Y 30 days notice before beginning any remodel or modification. The timing, extent, and nature of any improvements shall be solely within the discretion of the Mayor and Council of the City.

13. ACCEPTANCE OF PREMISES BY THE Y. The Y has accepted the premises as is. The Y agrees to return the premises and the facilities, fixtures, furnishings, and equipment not owned by the Y to the City in a condition as good as when accepted by the Y, reasonable wear and tear excepted.

14. COMPLIANCE WITH LAWS. The Y shall strictly comply with all Federal, State and local laws, rules, regulations, and ordinances, including those governing the operation of a public swimming pool. The Y agrees not to permit or allow any illegal business, trade or occupation in or on the Concession premises and shall not permit the premises to be occupied by or used for any immoral or illegal purposes.

15. INDEMNIFICATION. The Y agrees that it will at all times maintain Worker's Compensation coverage for the benefit of its employees, and adequate liability and property damage insurance as specified in Section 16 below covering the activities of the Y, its agents, servants and employees, on the leased premises. The Y further agrees to defend, indemnify, and save the City, its agents, employees and public officials, harmless from any and all claims or causes of action of any nature whatsoever arising out of the activities and operations of the Y, its agents, servants, invitees, officers, and employees, in connection with this Concession Agreement.

16. DIVING BOARD. The parties hereby acknowledge that the swimming pool depth below the diving boards at the swimming pool is ten feet (10'). This depth meets Idaho Code. However, the requirement for Y swimming pools is 11 feet, 6 inches (11'6"). As such, the City hereby agrees to indemnify and hold harmless the Y, its employees and agents, of and from any

claim or causes of action arising out of or related to injury or damages to persons hitting the bottom of the pool under the diving boards as a result of the use of the diving boards. This is a specific exemption to paragraph 15 above.

17. INSURANCE. In order to effectuate the foregoing indemnification provisions, the Y shall maintain insurance coverage as follows:

- A. The Y shall purchase public liability insurance in the amount of \$500,000 combined single limit to protect the City from any and all public liability claims. The City shall be named as an additional insured or be acknowledged by the Y's insurance carrier as a covered entity under the terms of said policy. Moreover, the Y is required to put its surety on notice that said surety may not change or cancel the existing insurance policy with the Y without first giving the City at least thirty (30) days written notice.
- B. The Y shall purchase personal property insurance in an amount sufficient to insure any and all of its personal property which might be used in the Y's operation of the business.
- C. The Y shall purchase Worker's Compensation insurance or the equivalent as required by Idaho Code.
- D. A Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Deputy City Clerk prior to or at the time of execution of this Concession Agreement. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Section 15 "Indemnification." The Y's failure to maintain insurance shall be a basis for immediate termination of this Concession Agreement.

18. PAYMENT OF TAXES. The Y shall pay all taxes, if any, which may be imposed by proper authority upon the Concession premises, or the facilities, fixtures, furnishings, equipment and personal property therein and thereon, including, if applicable, ad valorem, income, sales, and payroll taxes. However, nothing herein shall preclude the Y or the City from challenging in good faith the validity of any tax imposed upon the Concession premises, the facilities, fixtures, furnishings, equipment, or personal property therein and thereon.

19. Y'S INDEPENDENT CONTRACTOR STATUS. It is understood and acknowledged by the parties that the relationship of the Y to the City is that of an independent contractor. The Y

shall have no authority to employ any person as an employee or agent for or on behalf of the City for any purpose, except as otherwise provided herein. Neither the Y nor any person engaging in any work relating to this Concession at the request of or with the consent of the Y, shall be deemed an employee or agent of the City, nor shall any such person or persons represent himself, herself, or themselves to others as an employee or agent of the City.

When ordering any goods or services for this Concession, the Y shall place such order in its own name or business name and not in the name of the City. The Y shall notify its vendors of the independent relationship between the parties to this Concession Agreement and shall advise its vendors that the Y is solely responsible for the goods or services purchased.

20. PAYMENT OF BILLS. The Y shall promptly pay all bills arising from the Y's operation of this facility. It is expressly understood that the Y is a licensee and independent contractor of the City. As such, the City shall in no way be responsible for any bills or obligations whatever incurred by the Y in the operation of the facility under this Concession Agreement.

21. PERMITS AND LICENSES. The Y shall obtain and maintain at its own expense any permits and licenses that may be required by competent authority for the operation of this facility.

22. NON-DISCRIMINATION. The Y shall fully comply with the Federal Equal Employment Act and other State and Federal laws requiring the fair, equal, and non-discriminatory treatment of all persons without regard to race, color, religion, sex, age or national origin. The Y represents, certifies and agrees that no person shall be denied or refused service or full or equal use of the facilities, nor denied employment opportunities by the Y, as a result of race, creed, color, religion, sex, age, national origin, ancestry, physical or mental handicap unrelated to ability, or marital status.

23. Y EMPLOYEES. The Y shall operate this Concession and shall employ sufficient and qualified personnel to operate the Concession in a businesslike manner. The pool facility shall be staffed with at least one aquatics director, as required above, along with other personnel adequate for the operation of the facility. In the event of a voluntary or involuntary termination of an aquatics director that places the Y out of compliance with this paragraph, the Y shall immediately exercise its best efforts to come into compliance with this paragraph.

Safety of Y employees shall be a primary concern of the Y. All employees shall be provided necessary safety training and equipment, and the Y shall require that its employees use the same at all reasonable times.

24. PARKS AND RECREATION DIRECTOR CITY'S REPRESENTATIVE. The Parks and Recreation Director of the City, working with the advice of the Pool Aquatics Advisory Board shall represent and manage the City's interest in the Concession premises. The Director may make reasonable written requests regarding the operation of this Concession to ensure compliance with the terms of this Concession Agreement, with which requests the Y shall comply.

25. NON-ASSIGNMENT. This Concession Agreement shall not be assigned in whole or in part nor shall the Concession premises or any part thereof be sublicensed, nor shall any right or privilege herein granted to the Y be sold, transferred or assigned, without the prior written approval of the City. Any such transfer, sale or assignment, whether voluntary or involuntary, without the written approval of the City, shall be void and shall constitute grounds for the cancellation of this Concession Agreement at the option of the City.

26. MODIFICATIONS OF LICENSE. This Concession Agreement sets forth all of the agreements between the parties hereto, and no change, modification, or amendment thereof shall be valid and binding unless set forth in writing and signed by the City and the Y.

27. TERMINATION.

- A. If, in the judgment of the City, the Y breaches or is in default of any term of this Concession Agreement, the City shall give the Y written notice specifying with reasonable particularity the unsatisfactory performance or default. If such breach or default is capable of being remedied and the Y fails or refuses to take reasonable steps to remedy such unsatisfactory performance or default within thirty (30) days after receipt of said notice, the City may terminate this Concession Agreement. If such breach or default is incapable of being remedied, the City may automatically terminate the Concession Agreement granted herein upon written notice to the Y of the breach or default.
- B. If, in the judgment of the Y, the City breaches or is in default of any term of this Concession Agreement, the Y shall give the City written notice specifying with

reasonable particularity the unsatisfactory performance or default. If such breach or default is capable of being remedied and the City fails or refuses to remedy such unsatisfactory performance or default within thirty (30) days after receipt of said notice, the Y may seek whatever remedy is available at law or in equity.

C. Notwithstanding the foregoing, the City and the Y shall have the absolute right to terminate this agreement by giving written notice one hundred eighty (180) in advance of the termination.

28. DESTRUCTION OF PREMISES. In the event the Concession premises are damaged by fire or other casualty to such an extent that the continued use of the premises by the Y is not desirable, the City or the Y may immediately terminate this Concession Agreement. The City may, but is not obligated to, repair or rebuild the Concession premises. In that event, if any portion of the original Concession Agreement period remains, the Y, upon written notice, shall resume operation of the Concession in accordance with this Concession Agreement.

29. REMOVAL OF PROPERTY ON TERMINATION. In the event this Concession Agreement expires or is terminated as herein provided, the Y shall immediately vacate the Concession premises and shall remove (a) all fixtures and personal property not on the inventory in Exhibit "B", (b) all fixtures and personal property not purchased to replace such inventory in Exhibit "B", and (c) all fixtures and personal property in which the Y holds actual title. Should the Y fail to remove or dispose of such property as herein provided, the City may consider it abandoned and may claim proper title to it or dispose of the same at the Y's expense.

The Y shall quit and surrender the said premises and shall leave the City's fixtures, equipment, furnishings, and personal property in as good or better condition as when accepted by the Y, reasonable wear and tear excepted. Removal of any fixtures and improvements attached to the structures on the Concession premises shall not leave the structures in a worse condition than at the time of the execution of this Concession Agreement.

30. LIENS AND ENCUMBRANCES. The Y shall keep the Concession premises, including all City-owned facilities, City-owned furnishings, City-owned fixtures, City-owned equipment and other City-owned property therein and thereon, free and clear from any liens and encumbrances arising from or growing out of the Y's use of the Concession premises. At the

City's request, the Y shall furnish the City's Chief Financial Officer written proof of payment of any item which might constitute the basis for such a lien on the premises, facilities, fixtures, furnishings, equipment or other property.

31. TERMINATION UPON BANKRUPTCY. Except, to the extent prohibited by applicable law, upon the occurrence of any one or more of the following events the Concession Agreement granted herein shall be deemed to have terminated automatically:

- A. The filing by the Y of the voluntary Petition in bankruptcy or the making of an assignment for the benefit of creditors; or
- B. The filing of an involuntary bankruptcy Petition against the Y that is not withdrawn or dismissed within ten (10) days; or
- C. A consenting by the Y to the appointment of a receiver or trustee of all or part of the Y's assets; or
- D. The filing by the Y of a Petition or Answer seeking an arrangement or reorganization under the Federal Bankruptcy Act or any other applicable State or Federal law; or
- E. The filing by the Y of a Petition to take advantage of any insolvency law or act.

32. NON-WAIVER OF BREACH. The waiver by the City of any breach by the Y of any provision contained in this Concession Agreement shall not be deemed to be a waiver of such provision or any subsequent breach of the same.

33. WRITING IS ENTIRE AGREEMENT. This Concession Agreement constitutes the entire agreement between the parties. No evidence of any prior or contemporaneous agreements, written or oral, may be used to modify the express terms of this writing.

34. SEVERABILITY. If any provision or portion of any provision of this Concession Agreement shall be deemed illegal or unenforceable by a Court of competent jurisdiction, the unaffected provisions or portions thereof shall remain in full force and effect.

35. JURISDICTION AND VENUE. Any action or proceeding relative to this Lease Agreement shall be maintained in the District Court, Fifth Judicial District County of Twin Falls, State of Idaho.

36. NOTICE. All notices under this Concession Agreement shall be deemed to be properly served if sent by certified mail to the last address previously furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

City of Twin Falls
Attn: Parks and Recreation Director
P.O. Box 1907
Twin Falls, ID 83303-1907

YMCA of Twin Falls, Inc.
Attn: C.E.O.
1751 Elizabeth Blvd.
Twin Falls, ID 83301

Notice shall be complete upon receipt, unless the recipient ignores or refuses to sign for the certified letter, in which event notice shall be deemed to have been completed on the first attempted delivery by the United State Post Office.

37. ATTORNEY'S FEES UPON BREACH. In the event it becomes necessary for either party to enforce the terms of this Concession Agreement, the prevailing party shall be awarded by a sum which will reasonably compensate it for the attorney's fees and costs incurred by such party to enforce the terms of this agreement. In the event attorney fees are awarded by a Court of law, the parties agree that a reasonable rate for attorney fees is \$150.00 per hour.

IN WITNESS WHEREOF, the parties hereto have executed this Concession Agreement by and through their authorized representatives the day and year first-above written.

CITY OF TWIN FALLS, a municipal corporation of Idaho
Don Hall
DON HALL, Mayor

ATTEST:
Heidi Sanchez
Deputy City Clerk August 23, 2011

YMCA of Twin Falls, Inc.
Michael Prosser
Michael Prosser President

STATE OF IDAHO)
) :SS
County of Twin Falls)

On this 30th day of August, 2011, before me, the undersigned, a Notary Public in and for the State, personally appeared M. Prosser the authorized agents for the YMCA of Twin Falls, Inc., known to me to be the person who executed the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



Elizabeth Luttmer
NOTARY PUBLIC FOR IDAHO
Residing in: Twin Falls, Idaho
My Commission Expires: June 16, 2014

EXHIBIT "A"
MAXIMUM FEES

Daily Admissions:

Youth 3 years and under	\$3.00
Youth 4 – 17 years	\$4.50
Adult	\$6.00

Annual Passes:

Adult	\$260.00/year or \$31.50/month, plus tax and a \$50 joiner fee
Family	\$350.00/year or \$38.50/month, plus tax and a \$50 joiner fee
Youth (under 18 years)	\$237.50/year or \$29.50/month, plus tax and a \$50 joiner fee

Rental Rate:

\$170.00/hour – actual rental charge will depend on the percentage of the pool used

EXHIBIT "B"
INVENTORY OF CITY OWNED FACILITIES

The City of Twin Falls is the owner of the pool and its related attachments (ladders, slide, diving boards, etc...) and all of the existing buildings, including all the fixed equipment. Fixed equipment includes but is not limited to HVAC equipment, boilers, chemical control systems, UV system, bathroom/plumbing fixtures, counters, and fire suppression equipment, etc.

In addition to the above named items, the City of Twin Falls owns the following equipment and items:

- Seasonal cover or bubble and associated fixtures (lights, blower, assembly hardware, canopy connections to building, etc...)
- Pool blankets
- Guard stands
- Lane line reels
- Picnic area shelter
- Picnic tables
- Bounce house
- Tarp Reels
- Pool Vacuum



Date: Monday, February 4, 2013
To: Honorable Mayor and City Council
From: Rene'e V. Carraway, Community Development Department

Request: CONSIDERATION OF THE REQUEST OF JAMES RAY on behalf of JON DAVIS TO WAIVE THE NON-CONFORMING BUILDING EXPANSION PERMIT PROCESS FOR AN EXPANSION TO HIS RESIDENCE LOCATED AT 819 CANYON RIM ROAD.

Time Estimate: Staff presentation may take five (5) minutes. Applicant will be there to answer any questions.

Background: Attached is a request from James Ray Construction on behalf of Jon Davis who is asking to be allowed to add to an existing nonconforming residence located at 819 Canyon Rim Road. His home is located in the R-1 VAR Zone and carries a Canyon Rim Overlay. He would like to remodel his existing home and add an attached 2-car garage to the front of the remodeled home. The rear of the existing home lies 21' (+/-) from the Snake River Canyon Rim. The proposed addition will not encroach any further to the rim. City Code Section 10-4-19.4(D)2 states the minimum building setback in the Canyon Rim Overlay shall be 100' without a geological report. Section 10-4-19.4(D)3b states with an approved geological report the minimum building setback may be 50' or the minimum setback recommended within the geological report. There are no records of a geological study.

City Code Section 10-3-4 deals with non-confirming buildings and uses. Section 10-3-4(D) provides for a process to allow a non-conforming building expansion permit, which requires a hearing before the Planning and Zoning Commission. The last sentence of the first paragraph of Section 10-3-4 states:

“The requirements of this section may be waived for residences and residential uses by motion and minute entry of the City Council.”

Conclusion:

If the Council wishes, it may waive the requirements of Section 10-3-4 and 10-4-19.4(D) and the applicant could apply for a building permit and proceed with the addition without a public hearing. If the Council feels the requirement for a geological report is necessary they could require an approved geological report be submitted prior to applying for the building permit.

If the Council feels that he should go through the non-conforming building expansion permit process, an application would be required and a public hearing held before the Commission. The process takes about 30-45 days from the date of application. Appeals would extend the time another 30-45 days.

Staff recommends approval of the request as presented.

Attachments:

1. Narrative
2. Zoning Map
3. Area/GIS Map
4. Site Plan
5. Elevations of remodeled residence (3)

RECEIVED

JAN 22 2013

CITY OF TWIN FALLS
PLANNING & ZONING



3520 Addison Ave. E, Kimberly, ID 83341
734-1025 or 280-0518

**Ref: Non-Conforming Building Expansion at 819 Canyon Springs Rd. Twin Falls, Idaho
On Behalf of Jon Davis, Property Owner**

(A.) Reason for the Expansion:

The existing home was built many years ago and is very outdated in both interior and exterior appearance. The current owner loves the location of the home but hate the home itself. He feels that this addition to the home will make it more user friendly and modern looking.

(B.) Why this Building is Non-conforming:

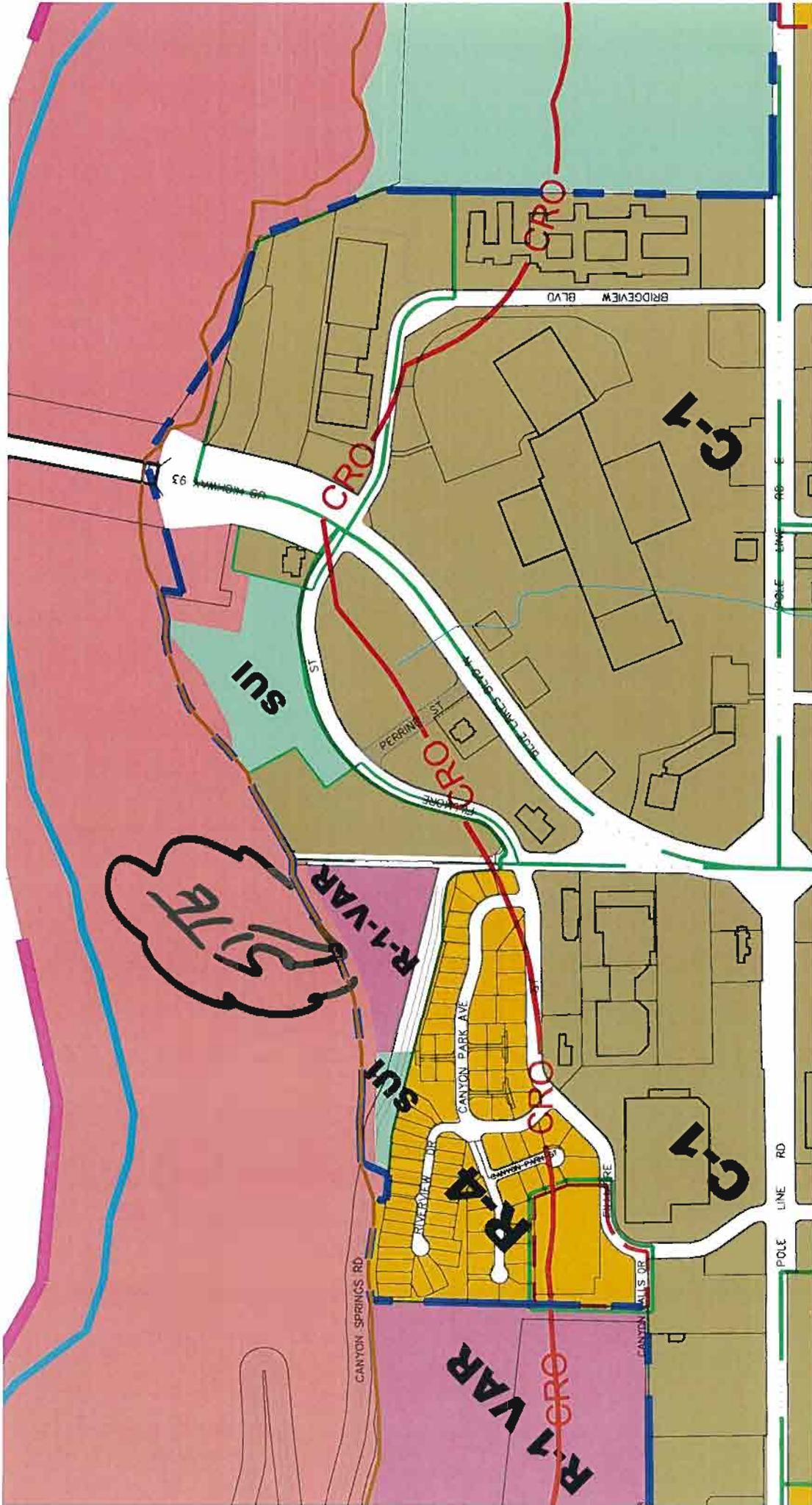
After this home was originally built, the city of Twin Falls planning and zoning adopted new rules for canyon rim setbacks. At the time the home was built, it met all the rules in place at that time.

(C.) What We Feel Will Be the Effects on the Adjoining Properties:

We believe this addition/remodel will be only a positive on all surrounding properties. It will be a much more modern looking home when we are done and be very beautiful and should only increase the value of this property. It should in no way negatively affect any neighboring homes.

(D.) Why We Feel this Non-Conforming Expansion is in General Compatibility with Adjacent Properties in the Neighborhood:

We feel the by doing this addition/remodel that it will make the home look really nice and better fit the building lot it sits on. It will help take advantage of this unique building site and look more modern like many of the newer homes built in close proximity to this home. We will not build any nearer to the canyon rim than the home is currently.





James Ray Remodel
819 Canyon Springs Road

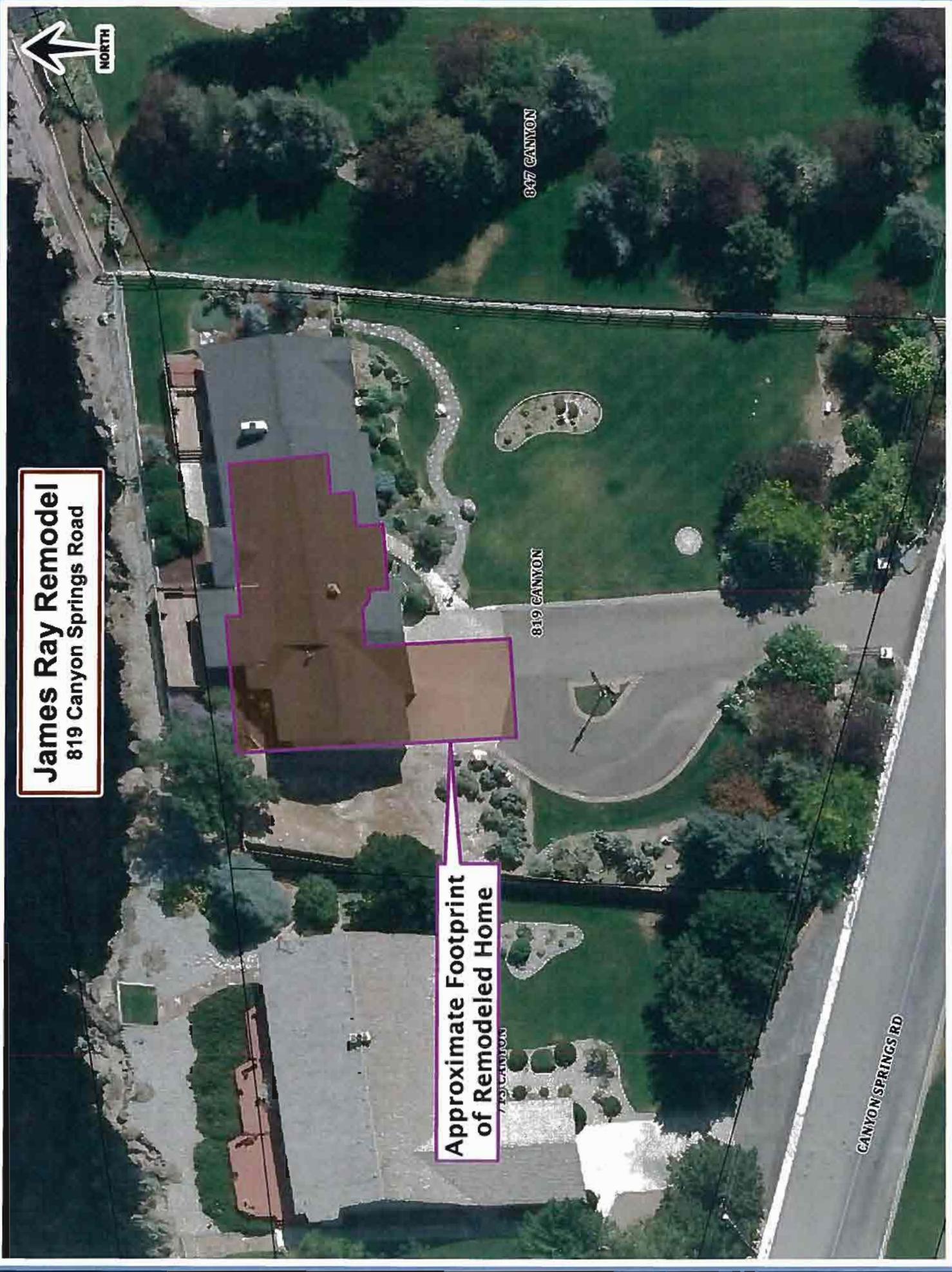
**Approximate Footprint
of Remodeled Home**

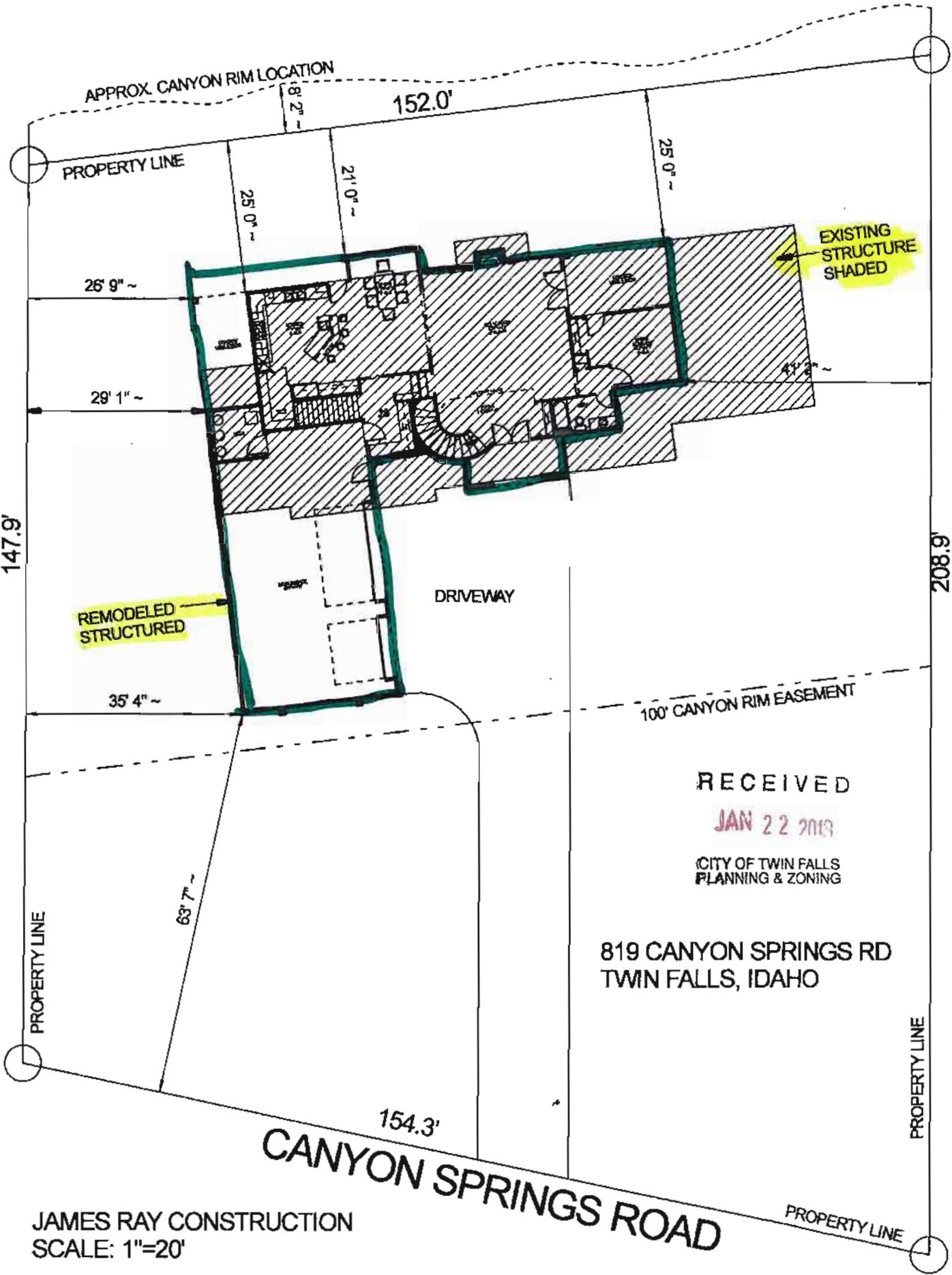
847 CANYON

819 CANYON

709 CANYON

CANYON SPRINGS RD



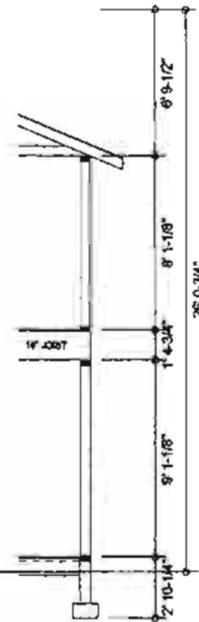


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PLANNING & ZONING

819 CANYON SPRINGS RD
TWIN FALLS, IDAHO

JAMES RAY CONSTRUCTION
SCALE: 1"=20'

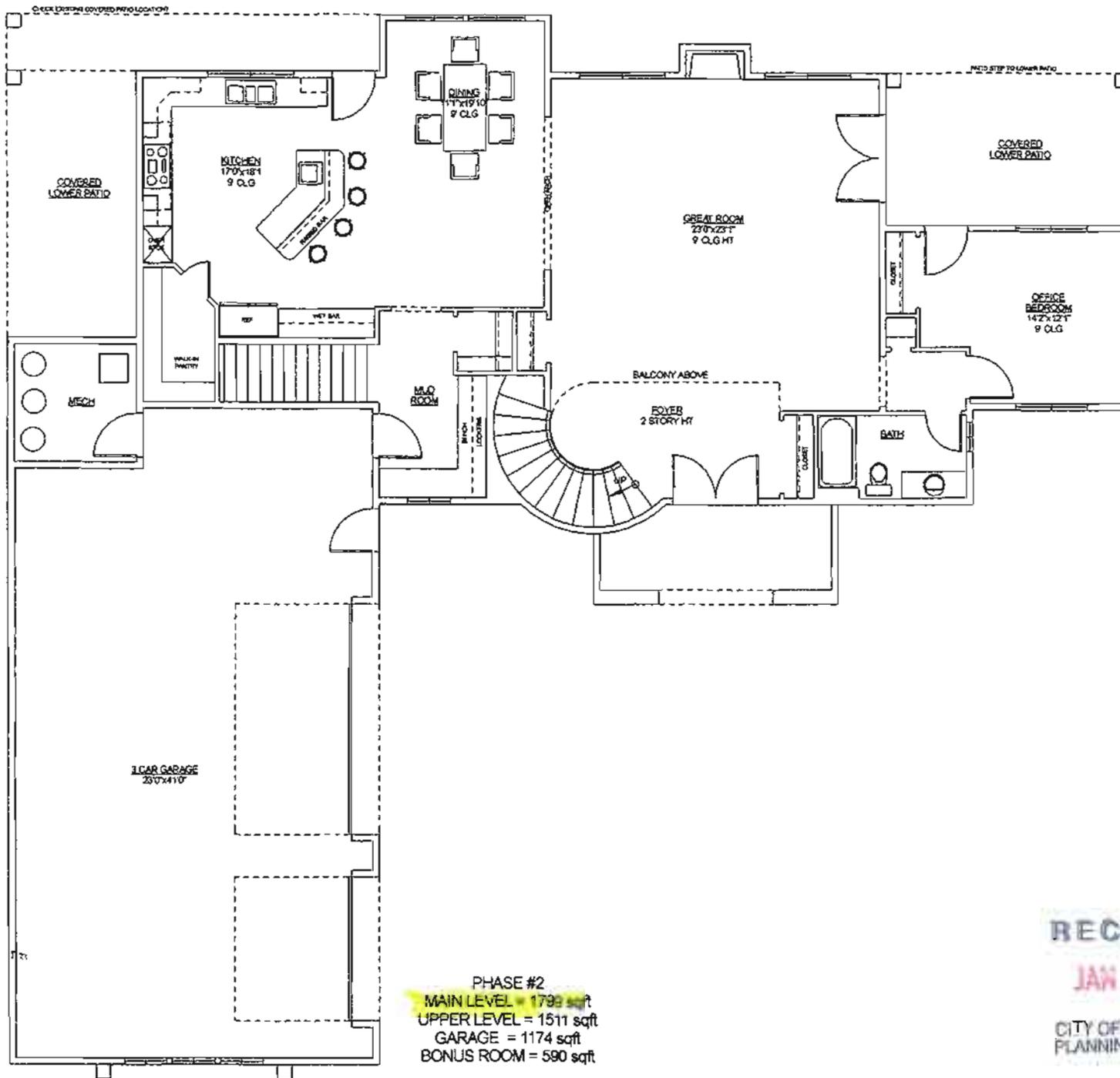
CANYON SPRINGS ROAD



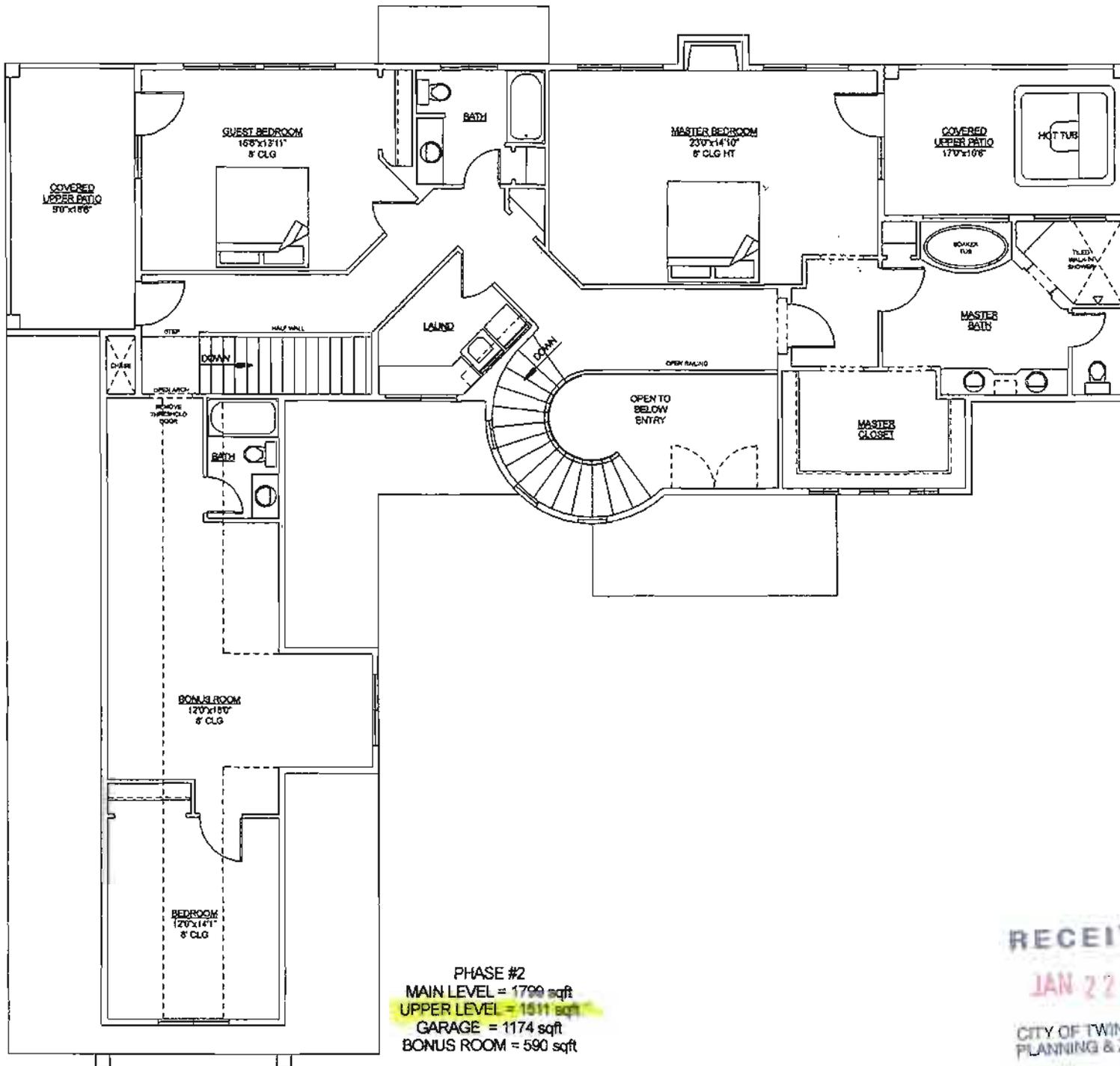
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PLANNING & ZONING



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 CITY OF TWIN FALLS
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PHASE #2
 MAIN LEVEL = 1799 sqft
 UPPER LEVEL = 1511 sqft
 GARAGE = 1174 sqft
 BONUS ROOM = 590 sqft

RECEIVED

JAN 22 2013

CITY OF TWIN FALLS
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