

**COUNCIL MEMBERS:**

LANCE CLOW	TRIP CRAIG	DON HALL	DAVID E. JOHNSON	WILLIAM A. KEZELE	GREG LANTING	REBECCA MILLS SOJKA
<i>Mayor</i>			<i>Vice Mayor</i>			



**AGENDA**  
 Meeting of the Twin Falls City Council  
**Monday, September 12, 2011**  
 City Council Chambers  
 305 3<sup>rd</sup> 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:       None.

AGENDA ITEMS	Purpose	By:
<b>I. CONSENT CALENDAR:</b> 1. Consideration of accounts payable for August 30 – September 12, 2011. 2. Consideration of the August 29, 2011, City Council Minutes. 3. Consideration of the Final Plat of Crowley's Corner Subdivision – A PUD, 0.88 (+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp. 4. Consideration of a request for approval of a 2 <sup>nd</sup> and final extension of the Final Plat of Dry Creek Subdivision, 0.44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East, c/o EHM Engineers/Tim Vawser on behalf of Kevin Bradshaw. 5. Consideration of a request for approval of a 5 <sup>th</sup> and final extension of the Final Plat of Grandview Estates Subdivision, 40(+/-) acres to develop 133 residential lots and 2 tracts located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc. 6. Consideration of a request to approve the 2011 Oktoberfest sponsored by Steve and Bev O'Conner of O'Dunken's Draught House, to be held on Friday, October 7, 2011. 7. Consideration of a request to approve the Magic Valley Customer Appreciation Event to be held in the 100 Block of Main Avenue West and North on Thursday, September 22, 2011.	<u>Action</u>	<u>Staff Report</u> Sharon Bryan L. Sanchez Mitch Humble  Mitch Humble  Mitch Humble  Dennis Pullin  Dennis Pullin
<b>II. ITEMS FOR CONSIDERATION:</b> 1. Consideration of a request to appoint Paul McClintock to the Twin Falls City Historic Preservation Commission. 2. Consideration of a request for the City Council to re-appoint Jim O'Donnell to a second 3 year term on the Airport Advisory Board. 3. Consideration of a request to schedule a public hearing on October 3, 2011, at 6:00 P.M., as the date and time for the City to consider to include a fee for a Reimbursement Application. 4. Informational Summary Presentation/Discussion of the Recommended Draft FAA Airport Master Plan Update. 5. Consideration of a request to schedule a public hearing on September 26, 2011, at 6:00 P.M., as the date and time to amend the Fiscal Year 2010-11 Budget. 6. Consideration of a request to schedule a public hearing on September 26, 2011, at 6:00 P.M., as the date and time to consider a proposal to increase utility rates as discussed during the 2011-2012 budget process. 7. Discussion regarding City owned properties that may be excess to the City's needs and consideration of a request to initiate the process to dispose of excess City owned properties. 8. A presentation by Brockway Engineering, PLLC, discussing the results of the Dye Tracer Study. 9. Public input and/or items from the City Manager and City Council.	Action Action Action Presentation/ Discussion Action Action Discussion/ Action Presentation	Mitch Humble Bill Carberry Troy Vitek Bill Carberry Darren Huber Lorie Race Mitch Humble Mike Trabert
<b>III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</b>		
<b>IV. PUBLIC HEARINGS:       6:00 – None.</b>		

V. <u>ADJOURNMENT:</u>		
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*\*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:

LANCE CLOW	TRIP CRAIG	DON HALL	DAVID E. JOHNSON	WILLIAM A. KEZELE	GREG LANTING	REBECCA MILLS SOJKA
<i>Mayor</i>			<i>Vice Mayor</i>			



**Minutes**  
**Meeting of the Twin Falls City Council**  
**August 29, 2011**  
**City Council Chambers**  
**305 3<sup>rd</sup> 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:       None.**

AGENDA ITEMS	Purpose	By:
<b>I. <u>CONSENT CALENDAR:</u></b> 1. Consideration of accounts payable for August 23 - August 29, 2011. 2. Consideration of the August 22, 2011, Minutes. 3. Consideration of the Final Plat of Crowley's Corner Subdivision – A PUD, 0.88(+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp.	<u>Action</u>	<u>Staff Report</u> Sharon Bryan L. Sanchez Mitch Humble
<b>II. <u>ITEMS FOR CONSIDERATION:</u></b> 1. Presentation of Certificates of Appreciation to Sonia Alexander, Jenni Geilman, and Jan Brumbach in recognition of their service on the Historic Preservation Commission Education Committee. 2. Presentation of Certificate of Appreciation to Jan Brumbach in recognition of her service and dedication on the Historic Preservation Commission. 3. Consideration of a request to re-appoint Jenni Geilman to the Twin Falls City Historic Preservation Commission. 4. Consideration of the request of Ken Danson for waiver of the non-conforming building expansion permit process to allow an expansion of a non-conforming residence at 1898 Shoup Avenue East. (app.2476) 5. Discussion on the Animal Shelter Advisory Board and the Board's recommendations following their July 20, 2011, meeting. 6. Public input and/or items from the City Manager and City Council 7. Consideration of the adoption of the 2011-2012 fiscal year budget.	Action  Action  Action  Action  Discussion  Action	Mitch Humble  Mitch Humble  Mitch Humble  Mitch Humble  Lance Clow  Travis Rothweiler
<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>		
<b>IV. <u>PUBLIC HEARINGS:</u>       6:00 – None.</b>		
<b>V. <u>ADJOURNMENT :</u></b>		

*\*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: Lance Clow, Trip Craig, Don Hall, David E. Johnson, William A. Kezele, Greg Lanting, Rebecca Mills Sojka

Absent: None

Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Chief Finance Director Lorie Race, Budget Coordinator Darren Huber, Community Development Director Mitch Humble, Deputy City Clerk/Recording Secretary Leila A. Sanchez

Senior Staff: Fire Chief Ron Clark, City Engineer Jacqueline Fields, Parks & Recreation Director Dennis Bowyer, Fire Chief Ron Clark, Battalion Chief Brian Cunningham, Personnel Director Susan Harris, Zoning & Development Manager Renee Carraway, Information Services Manager Mick Turner, Staff Sergeant Dan McAtee, Public Works Director Jon Caton.

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

### **CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:**

City Manager Rothweiler requested the following amendments to the agenda:

Removal of Consent Calendar Item 3. Consideration of the Final Plat of Crowley's Corner Subdivision – A PUD, 0.88(+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp. Postponed. To be heard September 12, 2011.

Addition of Executive Session 67-2345 (1)(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

Addition of Consideration of an ordinance to adopt the FY 11-12 Appropriations Measure.

### **MOTION:**

Vice Mayor Lanting made a motion to amend the agenda as presented. The motion was seconded by Councilperson Johnson and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

**PROCLAMATIONS: None.**

### **AGENDA ITEMS**

#### **I. CONSENT CALENDAR:**

1. Consideration of accounts payable for August 23 - August 29, 2011, total: \$1,506,434.92  
August 22, 2011, Prepay total: \$49.00  
August 23, 2011, Prepay total: \$2,412.00
2. Consideration of the August 22, 2011, Minutes.
3. Consideration of the Final Plat of Crowley's Corner Subdivision – A PUD, 0.88(+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp. Postponed. To be heard September 12, 2011. POSTPONED. TO BE HEARD ON SEPTEMBER 12, 2011.

### **MOTION:**

Councilperson Johnson made a motion to approve the Consent Calendar as amended. The motion was seconded by Vice Mayor Lanting and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

**II. ITEMS FOR CONSIDERATION:**

1. Presentation of Certificates of Appreciation to Sonia Alexander, Jenni Geilman, and Jan Brumbach in recognition of their service on the Historic Preservation Commission Education Committee.
2. Presentation of Certificate of Appreciation to Jan Brumbach in recognition of her service and dedication on the Historic Preservation Commission.

Darrell Buffaloe, Chairman of the Historical Preservation Commission, Mayor Hall, and Vice Mayor Lanting presented certificates to Sonia Alexander, Jenni Geilman, and Jan Brumbach for their service on the Historic Preservation Commission Education Committee.

Darrell Buffaloe, Chairman of the Historical Preservation Commission, Mayor Hall, and Vice Mayor Lanting presented a Certificate of Appreciation to Jenni Geilman for her service and dedication on the Historic Preservation Commission.

3. Consideration of a request to re-appoint Jenni Geilman to the Twin Falls City Historic Preservation Commission.

Community Development Director Humble reviewed the request.

**MOTION:**

Vice Mayor Lanting made a motion to re-appoint Jenni Geilman to the Twin Falls City Historic Preservation Commission for a full 3-year term. The motion was seconded by Councilperson Clow and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

4. Consideration of the request of Ken Danson for waiver of the non-conforming building expansion permit process to allow an expansion of a non-conforming residence at 1898 Shoup Avenue East. (app.2476)

Community Development Director Humble reviewed the request.

Staff recommends approval of the request with the following condition: Subject to complete review by Building, Engineering, Fire, and Zoning Officials to ensure compliance with all applicable City Code Requirements and Standards for existing and proposed buildings on the site.

**MOTION:**

Councilperson Johnson made a motion to approve the request of Ken Danson for waiver of the non-conforming building expansion permit process to allow an expansion of a non-conforming residence at 1898 Shoup Avenue East. (app.2476) with the following condition: Subject to complete review by Building, Engineering, Fire, and Zoning Officials to ensure compliance with all applicable City Code Requirements and Standards for existing and proposed buildings on the site. The motion was seconded by Vice Mayor Lanting and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

5. Executive Session 67-2345 (1)(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

**MOTION:**

Councilperson Clow made a motion to adjourn to Executive Session 67-2345 (1)(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with

governing bodies in other states or nations. The motion was seconded by Vice Mayor Lanting and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Adjourned at 5:17 P.M.  
Reconvened at 5:35 P.M.

6. Discussion of the adoption of the 2011-2012 fiscal year budget.

City Manager Rothweiler recapped the current changes made to the tentative preliminary budget.

**MOTION:**

Councilperson Clow made the motion to remove the 2.4% - \$366,451 from the published budget amount. The motion was seconded by Councilperson Kezele.

Discussion followed.

Roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Councilperson Kezele asked questions on the Bucket Truck Replacement. Budget Coordinator Huber reviewed Idaho Power Maintenance on 366 lights, Balanced Rock Maintenance Information, and City of Twin Falls Maintenance Information using overhead projection.

Councilperson Kezele stated that the savings seen on Line Item 103-31, Street Lighting, suggests that fund will go directly into the budget to offset the costs of the vehicle or will the money be put back in the overall fund.

City Manager Rothweiler clarified that in the current number under Street Lighting under the electric portion, the City has \$269,500, which is the exact same amount that was offered last year. With what was illustrated by Budget Coordinator Huber, there could be a potential savings of \$29,860. He stated that Idaho Power has contemplated and he believes they have approached the PUC on a power rate adjustment. That power rate adjustment is also not incorporated into that flat amount. The difference may be estimated at \$22,000. He also clarified that the request by Idaho Power to the PUC for a rate adjustment does not mean the PUC will approve the request.

**MOTION:**

Councilperson Johnson made a motion to direct staff to draw up the ordinance with the changes made for the budget FY 2011-2012 and present it to Council. The motion was seconded by Councilperson Clow.

Discussion followed.

Roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

7. Discussion on the Animal Shelter Advisory Board and the Board's recommendations following their July 20, 2011, meeting.

Councilperson Clow explained that on July 27, 2011, the Board recommended the role of the Advisory Commission be eliminated from a codified commission and utilized as a task force in the future to be called together as needed. Discussion was made in having a review of the animal shelter by some independent agency.

City Manager Rothweiler stated a contract was awarded to the People for Pets with additional language that there would be a performance review at some point in the contract. The cost of a performance review will be approximately \$20,000, and is scheduled to occur between years 3 and 5 of the contract.

Discussion followed.

**MOTION:**

Councilperson Johnson made a motion to direct staff to remove Title 2 Chapter 9 from the City Code Animal Shelter Advisory Board and prepare an ordinance to bring back to Council. The motion was seconded by Councilperson Clow and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

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

The September 6, 2011, Council Meeting has been cancelled.

A Regional Commemorative Celebration of the tragic events of September 11 will be held on September 11, 2011 at 7:00 P.M. at the City Park Band Shell.

Recess: 6:12 P.M.

Reconvened: 6:29 P.M.

9. Consideration of an ordinance to adopt the FY 11-12 Appropriations Measure.

City Manager Rothweiler reviewed the request.

**MOTION:**

Councilperson Johnson made the motion to suspend the rules and place Ordinance #3010, entitled, AN ORDINANCE OF THE CITY OF TWIN FALLS, IDAHO, APPROPRIATING THE VARIOUS SUMS OF MONEY DEEMED NECESSARY TO DEFRAY ALL NECESSARY EXPENSES AND LIABILITIES OF THE CITY OF TWIN FALLS, IDAHO, DESIGNATING AND SPECIFYING THE DIFFERENT FUNDS TO WHICH ALL REVENUE SHALL ACCRUE AND FROM WHICH SUCH APPROPRIATIONS SHALL BE MADE FOR THE FISCAL YEAR BEGINNING ON THE FIRST DAY OF OCTOBER, 2011, AND ENDING ON THE 30TH DAY OF SEPTEMBER, 2012, TO BE KNOWN AS THE ANNUAL APPROPRIATION BILL OF F.Y. 2012

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

Deputy City Clerk Sanchez read the ordinance by title only.

**MOTION:**

Councilperson Johnson made the motion to adopt Ordinance #3010. The motion was seconded by Councilperson Kezele and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

**III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:**

**IV. PUBLIC HEARINGS: 6:00 – None.**

Minutes

August 29, 2011

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V. **ADJOURNMENT:** The meeting adjourned at 6:26 P.M.

Leila A. Sanchez

Deputy City Clerk/Recording Secretary



DATE: **MONDAY, SEPTEMBER 12, 2011**  
 To: Honorable Mayor Hall and City Council  
 From: Mitch Humble, Community Development Department

**ITEM I-**

**Request:** Consideration of the Final Plat of Crowley’s Corner Subdivision-A PUD, 0.88 (+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp.

**Time Estimate:**

No presentation required.

**Background:**

<b>Applicant:</b>	<b>Status:</b> Owner/Developer	<b>Size:</b> 0.88(+/-) acres
Twin Falls Holding Corporation c/o Richard Crowley 940 Trotter Drive Twin Falls, Idaho 83301 736-1791 quad@ldsliving.com	<b>Current Zoning:</b> C-1 PUD	<b>Requested Zoning:</b> Final Plat approval
	<b>Comprehensive Plan:</b> Commercial/Retail	<b>Lot Count:</b> 2
	<b>Existing Land Use:</b> Commercial Use	<b>Proposed Land Use:</b> Commercial Use Planned Unit Development
<b>Representative:</b>	<b>Zoning Designations &amp; Surrounding Land Use(s)</b>	
JUB Engineers, Inc. c/o Rex Harding 115 Northstar Avenue Twin Falls, Idaho 83301 208-733-2414 208-308-4675 (c) <a href="mailto:rlh@jub.com">rlh@jub.com</a>	<b>North:</b> C-1 PUD; Pole Line Rd E/Magic Valley Mall	<b>East:</b> C-1; Locust St N/ Home Depot
	<b>South:</b> R-4; Residential	<b>West:</b> C-1; Lithia Auto Sales
	<b>Applicable Regulations:</b> 10-1-4, 10-1-5, 10-4-8, 10-6-1 through 3, 10-7-6, 10-11-1 thru 9, 10-12-2.3	

**Approval Process:**

**TF City Code Title 10; Chapter 12-Subdivision Regulations; Section 2.4-Final Plat; (A), (D) (I):**

**(A)Application:** After the approval or conditional approval of the preliminary plat, the subdivider may cause the total parcel, or any part thereof, to be surveyed, and a final plat prepared in accordance with the approved preliminary plat. The subdivider shall submit to the Administrator three (3) copies of the final plat. (Ord. 2012, 7-6-1981)

**(D)Administrator Review:**

- 1. Acceptance:** Upon receipt of the final plat and compliance with all other requirements as provided for herein, the Administrator, after review by the City Engineering Department, shall certify the application as complete and shall affix the date of acceptance thereon.
- 2. Resubmittal of Final Plat:** The Administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the Administrator determines that there is substantial difference in the final plat than that which was approved as a preliminary plat or conditions which have not been met, the Administrator may require that the final plat be submitted to the Commission in the same manner as required in the preliminary plat process.
- 3. Submission to the Council:** Upon the determination that the final plat is in compliance with the preliminary plat and all conditional requirements have been met, the Administrator shall place the final plat on the Council agenda at the next regular meeting. (Ord. 2620, 8-2-1999)

**(I)Approval Period:** Final plat shall be filed with the county recorder within one year after written approval by the council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the council.

**Budget Impact:**

Approval of this request will have negligible impact on the City budget.

**Regulatory Impact:**

Approval of this request will allow the applicant to proceed to develop the property in conformance with an approved Preliminary & Final Plat, any conditions placed on that approval and approved construction plans and the PUD Agreement.

**History:**

- In July of 1909 the EOFF Tract was recorded. The property under consideration is part of the approved PUD Agreement and is located in the northeast portion of this plat.
- On March 31, 1998 Richard E. Santia, on behalf of Rex TV & Appliances, Inc., gave a preliminary presentation to the Planning & Zoning Commission on a request for a zoning district change and zoning map amendment from R-4 to C-1 PUD for property located at 1434 East Pole Line Road. A public hearing was held on April 14, 1998 concerning this request. The northeast property was not included in the request at that time. The main concerns with this request were 1) creating a spot zone by not including the existing residence at the northeast corner of the property in the PUD; 2) storm water management; and 3) limiting accesses to one on Pole Line Road East and one on Locust Street North.
- This request was approved with the following conditions: 1) Provide an acceptable storm water management/flood plain mitigation plan. 2) Limit total driveway approaches to one on Pole Line Road East and one on Locust Street North, as shown on the presented preliminary Master Development Plan. 3) Perfect ingress/egress easement from unplatted R-4 parcel to precluded future direct access from corner lot to Pole Line Road East or Locust Street North. 4) A minimum 15' landscaped buffer to be provided along Locust Street North and a minimum 30' landscaped buffer to be provided along Pole Line Road. 5) Include the existing residence located at the northeast corner of Pole Line & Locust within the PUD.
- Public hearings before the Council were set for May 18, June 1 and June 15, 1998 for the rezone request. On May 18, 1998 the Council voted to suspend the rules and approved the request to rezone this property from R-4 to C-1 PUD as presented subject to the five (5) conditions as recommended by the Commission. Ordinance #2583 was approved on May 18, 1998.
- On July 13, 1998 the City Council approved the PUD Agreement for Kelly & Cohen Appliances, Inc. and Willard D. Ihler and Dorothy M. Ihler. There was discussion regarding the name change of the developer.
- On September 21, 1998 the Planning & Zoning Commission approved the preliminary plat of the Rex Subdivision with the following three conditions: 1) Approval subject to Engineering technical review; 2) No direct access to Pole Line Road from Lot 2; and 3) Access to Lot 2 from Locust Street North be restricted to the southerly 47' of Lot 2. The Commission felt the plat appeared to meet the development plan approved through the PUD process and was consistent with the development in the area.
- On October 13, 1998 the City Council approved the final plat of the Rex Subdivision. They added a fourth condition that construction of curb, gutter and sidewalk along Pole Line Road East to Locust Street North was required. The final plat was recorded in June of 2000. There was a storm water plan submitted and approved by the engineering department. Additional rights-of-way on Pole Line Road and Locust Street North were provided.
- On October 25, 1999 the City Council approved an extension on the final plat of the Rex Subdivision for one year. The plat was recorded on June 21, 2000.
- On April 28, 2009 the Planning & Zoning commission approved the preliminary plat of the Rex Subdivision 1<sup>st</sup> Amended with the following four 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; 2) Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property; 3) Subject to a deferral being obtained for the relocation of the existing sign at the time the sign is replaced or when Locust Street North is widened, whichever occurs first; and 4) Subject to a ten (10) foot easement being indicated on the plat behind the right-of-way line on Locust Street North.
- On June 1, 2009 the City Council approved the final plat of the Rex Subdivision First Amended with staff recommendations. The final plat was recorded on June 21, 2009.
- The applicant presented this proposed amendment to the "Kelly & Cohen Appliances, Inc. and Willard D. Ihler and Dorothy M. Ihler PUD Development Agreement--PUD #212", to allow for a modification of the Master Development Plan to include redevelopment of the northeast portion of the existing PUD #212 to allow an 8000 sf multi-tenant commercial development on property located at the southwest corner of Pole Line Road East and Locust Street North to the Commission on May 10, 2011.
- On May 24, 2011 the request for an amendment to "Kelly & Cohen Appliances, Inc. and Willard D. Ihler and Dorothy M. Ihler PUD Development Agreement #212 was presented to the Planning & Zoning Commission. The Amendment was recommended for denial to the City Council.
- There was a public hearing scheduled for the City Council to hear the request for amendment. City Attorney Wonderlich stated that no action is necessary.

**Analysis:**

This Final Plat for the Crowley's Corner Subdivision includes 0.88 (+/-) acres and is zoned C-1 PUD. The request is to plat two (2) lots for commercial development. The site is located on the southwest corner of Pole Line Road East and Locust Street North. The proposed Lot 2 has an existing commercial retail business.

The proposed plat will include the northeast portion of the property which has an existing building that is being removed. The existing property lines of this lot will be vacated and it will be included in Lot 1 of the proposed subdivision. The square footage of Lot 1 is 21,114 sf and Lot 2 is 16,335 sf. The minimum lot square footage requirement for commercial development is that the lot be of sufficient size to provide for the building, the required setbacks, off street parking and landscaping.

Curb, gutter and sidewalk exist along Pole Line Road East and Locust Street North. Upon review by the Engineering Department it has been determined that the developer could be allowed a deferral agreement for the installation of curb, gutter and sidewalk along Locust Street North until such time the street is widened. There is an existing access easement to the property from an approach off Pole Line Road East on the lot to the west. There is an existing access easement to the property on the west from an approach off Locust Street North. The easement off Locust Street North is proposed to be modified and some parking easements added. The developer will be responsible for executing a cross-use access, parking, utility and storm water drainage agreement between lots 1 and 2 of the proposed subdivision.

City Code 10-12-1.2(P)1 states that the use of the city's potable water supply as a primary source of irrigation water in all new developments shall be prohibited. City Code 10-12-1.2(P)3 authorizes the City Engineer to grant a variance from the requirement of a pressure irrigation system. The existing lot in the northeast corner of the proposed subdivision has an existing well. The developer has indicated they will use the existing well for non-potable water. Upon review of the proposed plat it was determined by the City Engineer that the applicant will not be required to construct a pressure irrigation system as long as the existing well is operable.

Approval of a preliminary plat does not constitute a commitment by the City to provide water or waste water services. A guarantee of services comes when the City Engineer signs a will-serve letter after final and construction plans are reviewed.

The plat is consistent with other subdivision development criteria and is in conformance with the Comprehensive Plan which designates this area as appropriate for medium density residential uses.

**On August 9, 2011 the Commission unanimously approved the Preliminary Plat of Crowley's Corner Subdivision-A PUD, as presented, with the following conditions:**

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to a cross-use agreement between Lots 1 and 2 of the proposed subdivision for access, parking, utilities and storm water drainage being recorded before final plat recording.
3. Subject to a deferral agreement being obtained for construction of Curb, Gutter and Sidewalk along the Locust Street North frontage.

**Staff would like to add a condition:**

4. Final Plat to be in conformance with the approved Preliminary Plat.

**Attachments:**

1. Request letter
2. Vicinity Map
3. Area Zoning Map
4. Aerial of the Project Site
5. Flood Plain Map
6. Preliminary Plat, as presented
7. Final Plat
8. Rex Subdivision 1<sup>st</sup> Amended Subdivision & Rex Subdivision
9. Memo from Jeff Rolig dated August 09, 2011
10. Letter from Jeff Rolig, dated August 15, 2011
11. August 9, 2011 P&Z public meeting minutes
12. August 30, 2011 final plat review letter #2
13. Letter from Rob Williams, dated September 7, 2011 & plat
14. Affidavit of Marty Gergen/Riedesel Engineering



J-U-B ENGINEERS, INC.

THE COMPANIES



THE LANGDON GROUP



GATEWAY MAPPING INC.

May 18, 2011

City of Twin Falls  
Planning and Zoning Commission  
P.O. Box 1907  
Twin Falls, ID 83303-1907

Re: Crowley's Corner Subdivision Preliminary Plat

Dear Commission Members;

The preliminary plat of the Crowley's Corner Subdivision is the second step in combining the two existing parcels into one to be developed for commercial use with one multi-tenant building. Some of the other features of this preliminary plat include:

- The resulting lot will have a total area of 0.51 acres.
- An additional 7 feet of Right-of-Way will be dedicated to the City of Twin Falls along the west side of Locust Street North on the portion of the property where the additional Right-of-Way had not been previously dedicated.
- Potable water will be provided to the lots through a new water service off of the existing Twin Falls municipal water system main along Locust Street North.
- Sewer disposal will be through the existing service that was connected to the house (office) that is being removed from the property.
- The driveway and parking areas are subject to the cross use provisions in the Kelly & Cohen Appliances, Inc. and Willard D. Ihler and Dorothy M. Ihler PUD Agreement #212 as amended for this phase of the development.

Six copies of the amended PUD Development Plan are included with this submittal. Also included is a drawing illustrating the elevation views of the proposed commercial building to be constructed on this lot.

The Twin Falls Holding Corporation (Owner) requests approval of this preliminary plat of the Crowley's Corner Subdivision to allow the planned commercial development to proceed ahead.

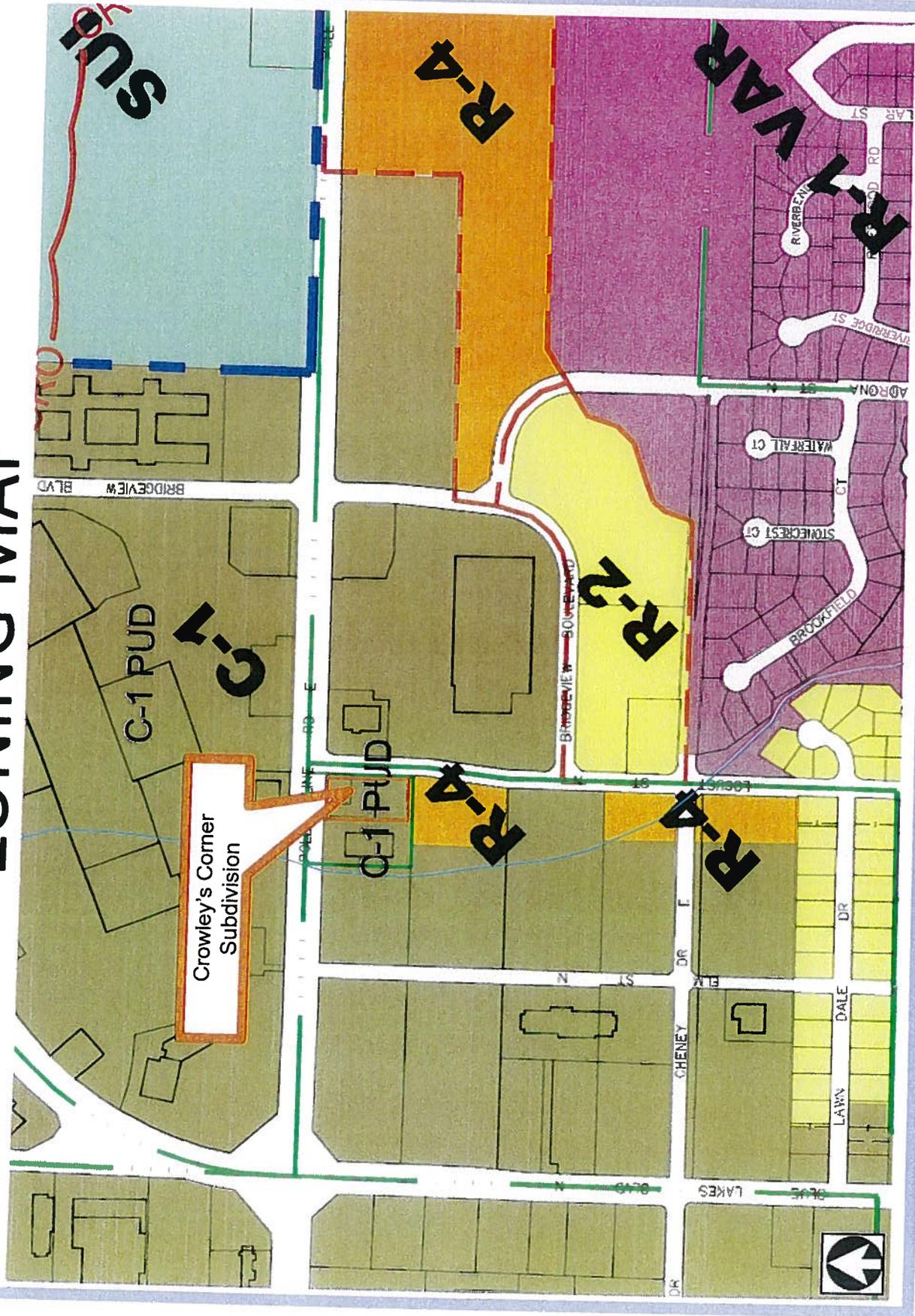
Sincerely,  
J-U-B Engineers, Inc.

  
Rex L. Harding, P.E.  
Project Manager

a 115 Northstar Avenue, Twin Falls, ID 83301 p 208 733 2414 f 208 733 9455 w www.jub.com



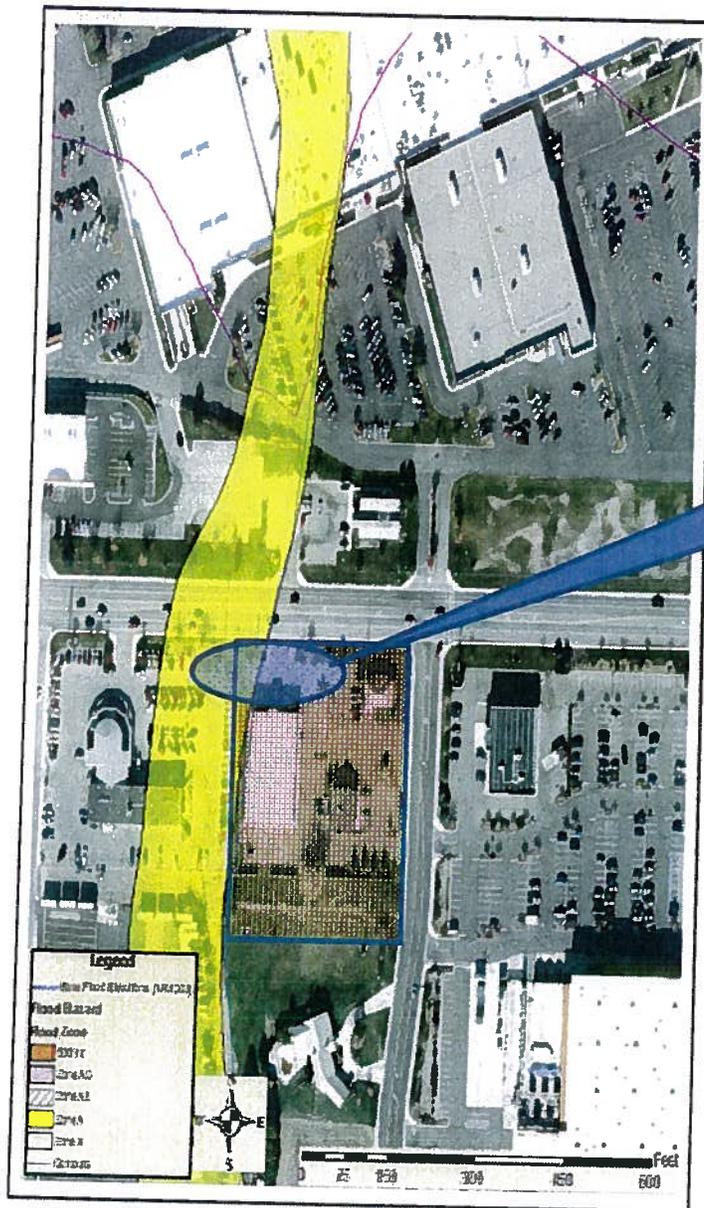
# ZONING MAP



# AERIAL MAP



# Flood Plain Map

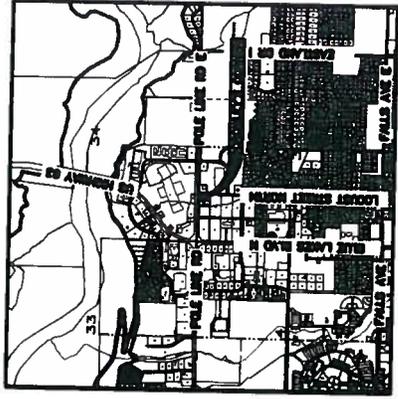


Flood Problem Area



Rec- 8-24-11 @ Scanned to eme.1

**PLAT SHOWING  
CROWLEY'S CORNER SUBDIVISION**  
LOCATED IN GOVERNMENT LOT 4, SECTION 3,  
TOWNSHIP 10 SOUTH, RANGE 17 EAST, BOISE MERIDIAN  
TWIN FALLS COUNTY, IDAHO  
2011

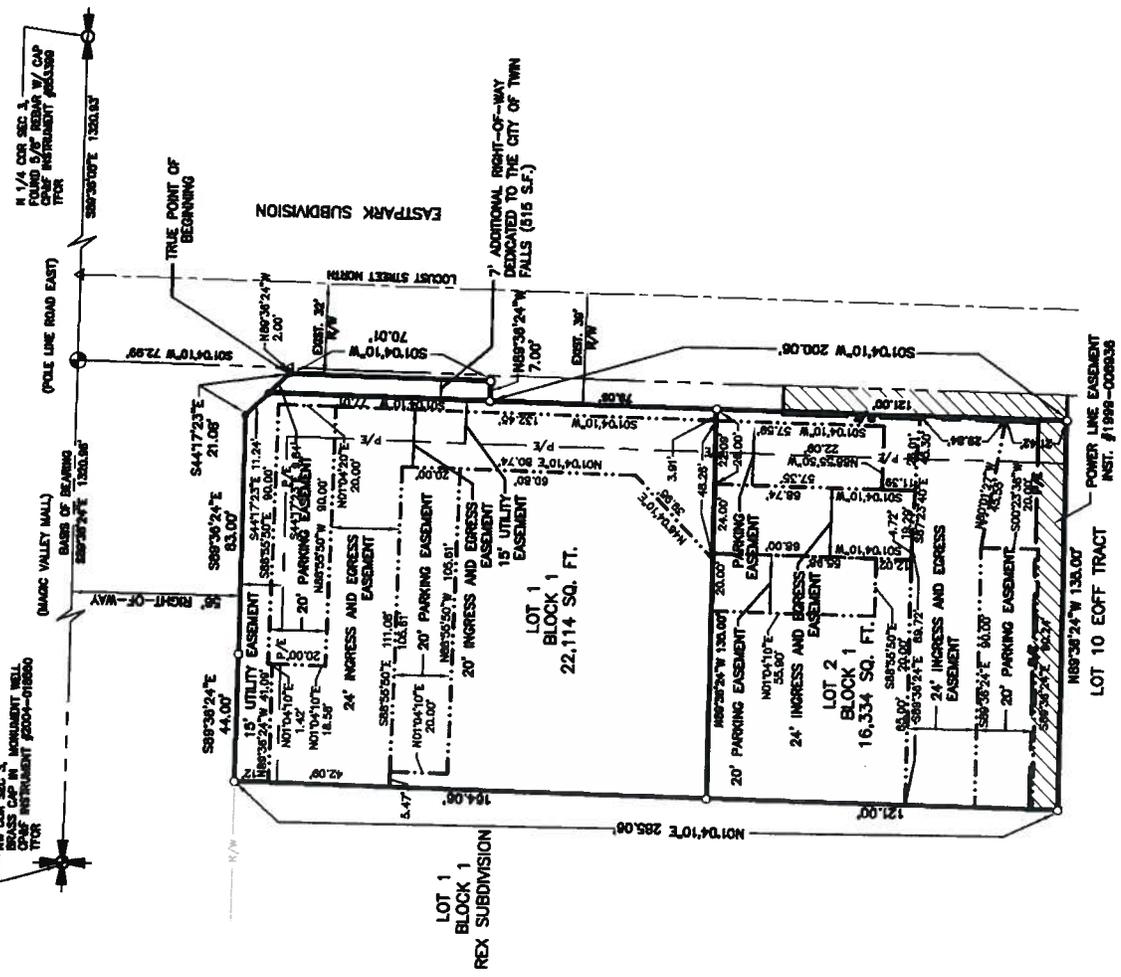


VICINITY MAP  
N.T.S.

**PRECEDENT SURVEYS**  
REX SUBDIVISION - INSTRUMENT #2000-008387 TFCR  
REX SUBDIVISION FIRST AMENDED INSTRUMENT #2010-018403 TFCR  
EOLF TRACT - BOOK 1, PAGE 28 TFCR

**LEGEND**

- BOUNDARY LINE
- LOT LINE
- STREET CENTERLINE
- SECTION LINE
- INGRESS AND EGRESS EASEMENT
- PUBLIC UTILITY EASEMENT
- ⊕ FOUND BRASS CAP
- 5/8" x 30" REBAR w/ CAP SET
- 5/8" REBAR w/ CAP FOUND
- △ CALCULATED POINT
- ⊕ SECTION CORNER
- ⊕ QUARTER CORNER



- NOTES**
1. THE PROPOSED USE OF THE SUBDIVISION IS TO COMBINE LOT 1 OF THE REX SUBDIVISION FIRST AMENDED AND THE NORTHEAST PORTION OF LOT 10 OF THE EOLF TRACT IN TO ONE LOT TO BE DEVELOPED FOR COMMERCIAL USE.
  2. NO VARIANCES ARE REQUESTED FOR THIS SUBDIVISION.
  3. UNDERGROUND POWER AND TELEPHONE SERVICES WILL BE PROVIDED.
  4. THE PROPOSED DEVELOPMENT IS COMPRISED OF 1 COMMERCIAL LOTS ON 5.50 ACRES.
  5. ALL LOTS WILL BE SERVED CITY OF TWIN FALLS MUNICIPAL SEWER AND WATER THROUGH CONNECTION TO EXISTING SEWER SERVICE AND A NEW WATER SERVICE.
  6. LANDSCAPE IRRIGATION WATER ON LOT 1 SHALL BE PROVIDED BY THE ON SITE WELL.
  7. ALL LOTS SHALL HAVE A 15' UTILITY EASEMENT ALONG POLE LINE ROAD EAST AND A 10' UTILITY EASEMENT ALONG LOCUST STREET NORTH.
  8. RUNOFF - RUNOFF WILL REMAINED ON THE LOT.

**HEALTH CERTIFICATE**

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE TITLE 50, CHAPTER 13, HAVE BEEN SATISFIED BASED ON THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF THE SANITARY RESTRICTIONS. BUYER IS CAUTIONED THAT AT THE TIME OF THIS APPROVAL, NO DRINKING WATER OR SEWER/SEPTIC FACILITIES WERE CONSTRUCTED, BUILDING CONSTRUCTION CAN BE ALLOWED WITH APPROPRIATE BUILDING PERMITS IF DRINKING WATER AND SEWER/SEPTIC FACILITIES HAVE BEEN SINCE CONSTRUCTED OR IF THE DEVELOPER IS CONSTRUCTING FACILITIES OR WITH THOSE FACILITIES IN ACCORDANCE WITH IDAHO CODE. RESTRICTIONS MAY BE REMOVED, IN ACCORDANCE WITH SECTION 50-1308, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL AND CONSTRUCTION OF ANY BUILDING OR SHELTER REQUIRING DRINKING WATER OR SEWER/SEPTIC FACILITIES SHALL BE ALLOWED.

SOUTH CENTRAL DISTRICT HEALTH DEPT., REVIS \_\_\_\_\_ DATE \_\_\_\_\_

J-U-B ENGINEERS, INC.  
Engineers Surveyors Planners  
Twin Falls, Idaho

Rec 8-24-11 (R) Scanned to my email

**CERTIFICATE OF OWNER**

KNOW ALL MEN BY THESE PRESENTS, THAT TWIN FALLS HOLDING CORPORATION, CORNELIUS J. BLOM AND LAMONA BLOM, DO HEREBY CERTIFY THAT THEY ARE THE OWNERS OF THE REAL PROPERTY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE EAST 100 FEET OF LOT 9, OF THE EFFY TRACT, TWIN FALLS COUNTY, IDAHO AS SHOWN ON THE OFFICIAL PLAT OF SAID TRACT AND RECORDED IN THE OFFICE OF THE RECORDER OF SAID COUNTY IN PLAT BOOK NO. 10, PAGE 29 AND LOT 1 AND LOT 2 OF BLOCK 1 OF THE REX SUBDIVISION FIRST AMENDED LOCATED IN CONGRESSIONAL LOT 4 OF SECTION 3, TOWNSHIP 10 SOUTH, RANGE 17 EAST, SEIZE MERIDIAN, TWIN FALLS COUNTY, IDAHO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 3; THENCE SOUTH 89°25'24" EAST A DISTANCE OF 1320.96 FEET ALONG THE NORTHERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 TO THE NORTHEAST CORNER OF SAID CONGRESSIONAL LOT 4; THENCE SOUTH 01°04'10" WEST A DISTANCE OF 24.00 FEET TO THE NORTHEAST CORNER OF SAID EFFY TRACT; THENCE SOUTH 01°04'10" WEST A DISTANCE OF 47.00 FEET ALONG THE EASTERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 AND THE EASTERLY BOUNDARY OF SAID EFFY TRACT; THENCE NORTH 89°25'24" WEST A DISTANCE OF 2.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 01°04'10" WEST A DISTANCE OF 70.00 FEET PARALLEL WITH THE EASTERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 AND THE EASTERLY BOUNDARY OF SAID EFFY TRACT; THENCE NORTH 89°25'24" WEST A DISTANCE OF 7.00 FEET TO THE NORTHERLY CORNER OF THE EASTERLY BOUNDARY OF LOT 1 BLOCK 1 OF THE REX SUBDIVISION FIRST AMENDED; THENCE SOUTH 01°04'10" WEST A DISTANCE OF 200.00 FEET PARALLEL WITH THE EASTERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 AND ALONG THE EASTERLY BOUNDARY OF SAID REX SUBDIVISION FIRST AMENDED; THENCE NORTH 89°25'24" WEST A DISTANCE OF 134.00 FEET ALONG THE SOUTHERLY BOUNDARY OF SAID REX SUBDIVISION FIRST AMENDED; THENCE SOUTH 01°04'10" EAST A DISTANCE OF 285.00 FEET PARALLEL WITH THE EASTERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 AND ALONG THE WESTERLY BOUNDARY OF SAID REX SUBDIVISION FIRST AMENDED TO THE NORTHEAST CORNER OF SAID SUBDIVISION; THENCE SOUTH 89°25'24" EAST A DISTANCE OF 44.00 FEET ALONG THE NORTHERLY BOUNDARY OF SAID REX SUBDIVISION FIRST AMENDED AND PARALLEL WITH THE NORTHERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 TO THE EASTERLY CORNER OF THE NORTHERLY BOUNDARY OF SAID LOT 1 BLOCK 1 OF THE REX SUBDIVISION FIRST AMENDED; THENCE SOUTH 89°25'24" EAST A DISTANCE OF 63.00 FEET PARALLEL WITH THE NORTHERLY BOUNDARY OF SAID CONGRESSIONAL LOT 4 AND THE NORTHERLY BOUNDARY OF THE EFFY TRACT; THENCE SOUTH 44°17'23" EAST A DISTANCE OF 21.00 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 0.00 ACRES MORE OR LESS.

LOCUST STREET NORTH ADDITIONAL RIGHT OF WAY IS HEREBY DEDICATED TO THE USE OF THE PUBLIC. THE EASEMENTS INDICATED HEREON ARE NOT INTENDED TO BE USED FOR THE PURPOSE OF THE LAND IN THIS SUBDIVISION AS SHOWN HEREON HAVE BEEN TRANSFERRED FROM SAID LANDS AND THAT AN IRRIGATION WATER DELIVERY SYSTEM IS NOT PROVIDED.

PURSUANT TO IDAHO CODE 89-133A, TWIN FALLS HOLDING CORPORATION, AS OWNER, DOES HEREBY STATE THAT THE MINORAL RIGHTS DESCRIBED IN THIS PLAT WILL BE ELIGIBLE TO RECEIVE DOMESTIC WATER SERVICE FROM ANY EXISTING COMMUNITY WATER SYSTEM.

PURSUANT TO IDAHO CODE 31-3062, TWIN FALLS HOLDING CORPORATION, AS OWNER DOES HEREBY STATE THAT THE WATER RIGHTS AND WATER RIGHT AND THE ASSESSMENT OBLIGATION OF THE LAND IN THE CROWLEY'S CORNER SUBDIVISION AS SHOWN HEREON HAVE BEEN TRANSFERRED FROM SAID LANDS AND THAT AN IRRIGATION WATER DELIVERY SYSTEM IS NOT PROVIDED.

IN WITNESS WHEREOF, I, THE OWNER OF LOT 1, BLOCK 1 OF THE REX SUBDIVISION FIRST AMENDED AND A PORTION OF LOT 9, EFFY TRACT HAVE SET MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011

RONALD CROWLEY, SECRETARY, TWIN FALLS HOLDING CORPORATION

STATE OF IDAHO ) )  
COUNTY OF TWIN FALLS ) )  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED RONALD CROWLEY KNOWN OR IDENTIFIED TO ME TO BE THE SECRETARY, RESPECTIVELY, OF TWIN FALLS HOLDING CORPORATION, THE COMPANY THAT EXECUTED THIS INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME ON BEHALF OF SAID COMPANY.

MY COMMISSION EXPIRES \_\_\_\_\_ RESIDING AT TWIN FALLS, IDAHO

NOTARY PUBLIC FOR IDAHO

IN WITNESS WHEREOF, BE THE OWNERS OF LOT 2, BLOCK 1 OF THE REX SUBDIVISION FIRST AMENDED HAVE SET OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011

CORNELIUS J. BLOM

LAMONA BLOM

STATE OF IDAHO ) )  
COUNTY OF TWIN FALLS ) )  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED CORNELIUS J. BLOM AND LAMONA BLOM, HEREON AND WIT, KNOWN OR IDENTIFIED TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE ABOVE CERTIFICATE OF OWNERS AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME ON BEHALF OF SAID COMPANY.

MY COMMISSION EXPIRES \_\_\_\_\_ RESIDING AT TWIN FALLS, IDAHO

NOTARY PUBLIC FOR IDAHO

**CERTIFICATE OF SURVEYOR**

I, GERT J. KOWAK, DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF IDAHO, AND THAT CROWLEY'S CORNER SUBDIVISION AS DESCRIBED IN THE CERTIFICATE OF SURVEY AND THE ATTACHED PLAT, WAS DRAWN FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION AND ACCURATELY REPRESENTS THE POINTS PLATTED THEREON, AND IS IN CONFORMITY WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEYS.



GERT J. KOWAK

**CERTIFICATE OF COUNTY SURVEYOR**

I, RICHARD H. CARLSON, A REGISTERED PROFESSIONAL LAND SURVEYOR FOR TWIN FALLS COUNTY, IDAHO, DO HEREBY STATE THAT I HAVE CHECKED THE PLAT OF CROWLEY'S CORNER SUBDIVISION AND FIND THAT IT COMPLES WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEYS.

COUNTY SURVEYOR \_\_\_\_\_ DATE \_\_\_\_\_

STATE OF IDAHO ) )  
COUNTY OF TWIN FALLS ) )  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_ KNOWN OR IDENTIFIED TO ME TO BE THE ACTING COUNTY SURVEYOR FOR TWIN FALLS COUNTY, IDAHO, AND HE EXECUTED THE SAME ON BEHALF OF SAID COUNTY.

MY COMMISSION EXPIRES \_\_\_\_\_ RESIDING AT TWIN FALLS, IDAHO

NOTARY PUBLIC FOR IDAHO

**APPROVAL OF CITY ENGINEER**

I, JACQUELINE FIELDS, CITY ENGINEER IN AND FOR THE CITY OF TWIN FALLS, IDAHO, DO HEREBY APPROVE THIS PLAT OF CROWLEY'S CORNER SUBDIVISION.

JACQUELINE D. FIELDS, P.E., CITY ENGINEER

DATE \_\_\_\_\_

DEPUTY CITY CLERK \_\_\_\_\_

**APPROVAL OF CITY COUNCIL**

DEPUTY CLERK FOR THE CITY OF TWIN FALLS, IDAHO, DO HEREBY CERTIFY THAT AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, THAT THE FOREGOING PLAT OF CROWLEY'S CORNER SUBDIVISION WAS DULY ACCEPTED AND APPROVED.

MAYOR \_\_\_\_\_ DEPUTY CITY CLERK \_\_\_\_\_

**CERTIFICATE OF COUNTY TREASURER**

IN AND FOR THE COUNTY OF TWIN FALLS, IDAHO FOR THE REQUIREMENTS OF IDAHO CODE 50-130A, DO HEREBY CERTIFY THAT ANY AND ALL CURRENT AND DELINQUENT COUNTY PROPERTY TAXES FOR THE PROPERTY INCLUDED IN THIS SUBDIVISION HAVE BEEN PAID IN FULL. THIS CERTIFICATION IS VALID FOR THE NEXT THIRTY DAYS ONLY.

COUNTY TREASURER \_\_\_\_\_ DATE \_\_\_\_\_

**COUNTY RECORDER'S CERTIFICATE**

INSTRUMENT NO. \_\_\_\_\_  
STATE OF IDAHO ) )  
COUNTY OF TWIN FALLS ) )

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED AT THE REQUEST OF THE COUNTY OF TWIN FALLS AT \_\_\_\_\_ MINUTES PAST \_\_\_\_\_ O'CLOCK, A.M. THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, IN MY OFFICE AND THIS DULY RECORDED IN BOOK \_\_\_\_\_ OF PLATS AT PAGES \_\_\_\_\_ AND \_\_\_\_\_.

DEPUTY \_\_\_\_\_ EX-OFFICIO RECORDER \_\_\_\_\_

**CROWLEY'S CORNER SUBDIVISION**

J-U-B ENGINEERS, INC.  
Engineers Surveyors Planners  
Twin Falls, Idaho





From: "Jeff Rolig" <jrolig@roliglawn.com>

To: "Rene'e Carraway" <RCARRAWA@tfid.org>, "Fritz Wonderlich" <fritzwonderlich@gmail.com>, "Rob Williams" <rewilliams@cableone.net>, "Rex Harding" <RLH@JUB.com>

CC: "Leslie Marshall" <lmarshall@klaff.com>, <dguerra@harborfreight.com>

Date: 8/9/2011 10:50 AM

Subject: Crowley Corner

Attachments: Memo to P&Z 080911.doc

Please see attached memo, which I am submitting for the consideration of the Planning and Zoning commissioners at their meeting this evening.

**Jeffrey E. Rolig**  
**Jeffrey E. Rolig, P.C.**  
**P.O. Box 5455**  
**Twin Falls, ID 83303**  
**Tele. 208-733-0075**  
**Fax 208-733-0717**

MEMO TO: TWIN FALLS CITY PLANNING AND ZONING COMMISSION  
FROM: JEFFREY E. ROLIG, ESQ.  
DATE: 08/09/2011  
RE: PRELIMINARY PLAT APPLICATION FOR CROWLEY'S CORNER  
SUBDIVISION

I am the attorney for KLAC Rex LLC, owner of the property located immediately to the West of the proposed subdivision. The property is occupied by my client's tenant, Harbor Freight Tools.

There is a major concern on the part of my client and their tenant (Harbor Freight) that traffic going to and from the proposed new development will adversely impact the access to and parking for the Harbor Freight premises. Although we have had numerous discussions regarding these concerns, nothing has been resolved to date. We do appreciate receipt of a proposed signage plan this morning.

The proposed plat eliminates or impacts easements that currently exist pursuant to the existing plat of the development property, which benefit my client's property. We contend the City should be cognizant of those easements, which are recorded encumbrances on the subject property which benefit my client's property, and should not allow elimination of or interference with those easements by the simple expedient of recording a new plat that ignores what is now recorded. In light of these issues, we propose that the following fourth condition should be added to approval of this plat, if the Commission decides to send the plat on to the City Council:

4. Subject to negotiation and acceptable resolution with the property owner of the adjacent parcel to the West of the subject property, of parking and traffic directional patterns on the subject property prior to elimination of or interference with existing parking and access easements.

RECEIVED

AUG 09 2011

CITY OF TWIN FALLS  
PLANNING & ZONING

RECEIVED

AUG 18 2011

CITY OF TWIN FALLS  
BUILDING DEPT.

# JEFFREY E. ROLIG, P.C.

Attorney at Law

195 River Vista Place, Ste 306  
P.O. Box 5455  
Twin Falls, ID 83303-5455

Telephone: 208-733-0075  
Facsimile: 208-733-0717  
E-Mail: jrolig@roliglaw.com

August 15, 2011

Robert E. Williams  
Williams, Meservy & Lothspeich, LLP  
PO Box 168  
Jerome, ID 83338-0168

Fritz Wonderlich  
WONDERLICH & WAKEFIELD  
PO Box 1812  
Twin Falls, ID 83303-1812

Re. KLAC Rex/Crowley Corner

Dear Rob and Fritz:

We are not convinced that the parking and traffic directional issues on the Twin Falls Holding Corp. property have been adequately addressed. Entrance off of Poleline Road continues to present potential health/safety issues, not to mention the prospect of traffic congestion in front of the Harbor Freight store and the use of my client's parking spaces by the new development's customers. The proposed signs are a step in the right direction, but additional signage would be helpful to direct traffic onto Locust Street; and there is nothing to direct parking to the ten spaces on the south boundary of the property.

The dimensions and location of the parking easement shown on the previous Rex and Rex Amended Subdivision plats clearly demonstrate the easement was intended and created for the sole benefit of my client's property, to be accessed directly off of my client's property. I believe you both are aware that an easement is not lost by nonuse of the party for whose use it is granted. That is certainly the case here. By condoning the recording of a new plat that effectively makes the parking easement disappear, the City would be participating improperly, along with the developer, in a destruction of my client's recorded property right. I encourage the City to re-examine its position on this issue.

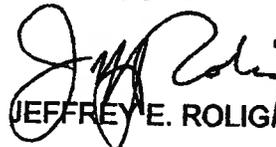
My client has made the point before that it is not just the current usage of the property, but also future potential uses that must be protected by whatever agreement we are able to reach at this time. The additional ten parking spaces that could be located in the easement may be necessary to support future uses of the property. To state the issue directly: we cannot allow the proposed new building to eliminate those spaces, and then be faced with a parking issue of our own in the future if the City or someone else takes the

Robert E. Williams  
Fritz Wonderlich  
Page 2  
August 15, 2011

position there are not enough parking spaces on the property to support a particular use of the existing building. I believe the only remedy for that at this point would be an agreement with the City that waives the requirement to have those parking spaces in the future, unless the parking easement remains in place and available for use. Leaving these issues unresolved puts my client in the position of having no choice but to take all necessary steps to protect its property interests.

My client and Harbor Freight remain willing to work through these issues. We would like to have another conference call including you and me, as well as representatives of the interested parties. Please call me so that we can arrange a time for the conference. Thank you.

Very truly yours,



JEFFREY E. ROLIG

JER/khr



**MINUTES**  
Twin Falls City Planning & Zoning  
Commission  
**August 9, 2011-6:00 PM**  
City Council Chambers  
305 3<sup>rd</sup> Avenue East Twin Falls, ID 83301

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**PLANNING & ZONING COMMISSION MEMBERS**

**CITY LIMITS:**

Wayne Bohrn Kevin Cope Jason Derricott Terry Ihler V. Lane Jacobson Jim Schouten Chuck Sharp

**Chairman Vice-Chairman**

**AREA OF IMPACT:**

Lee DeVore R. Erick Mikesell

**CITY COUNCIL LIAISON**

Rebecca Mills Sojka

---

**ATTENDANCE**

**PLANNING & ZONING MEMBERS**

**PRESENT:**

Bohrn  
Cope  
Derricott  
Jacobson  
Schouten  
Sharp

**ABSENT:**

Ihler

**AREA OF IMPACT MEMBERS**

**PRESENT:**

Mikesell

**ABSENT:**

DeVore

**CITY COUNCIL MEMBERS PRESENT:**

**CITY STAFF PRESENT:** Carraway, Strickland, Vitek, Wonderlich

---

**AGENDA ITEMS FOR CONSIDERATION AND PUBLIC HEARING**

**III. ITEMS OF CONSIDERATION:**

1. Consideration of the Preliminary Plat of Crowley's Corner Subdivision, 0.88 (+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp.

**IV. PUBLIC HEARINGS: NONE**

**I. CALL MEETING TO ORDER:**

Chairman Borhn 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): **July 12, 2011 & July 26, 2011**
2. Approval of Findings of Fact and Conclusions of Law:
  - K&L Subdivision (pre-plat)
  - Michael Dougherty (SUP)
  - Kevin Cassidy (SUP)

**MOTION:**

Commissioner Schouten made a motion to approve the consent calendar as presented. Commissioner Derricott seconded the motion.

**UNANIMOUSLY APPROVED**

**III. ITEMS OF CONSIDERATION:**

1. Consideration of the Preliminary Plat of Crowley's Corner Subdivision, 0.88 (+/-) acres consisting of two (2) commercial lots and located at the southwest corner of Pole Line Road East and Locust Street North aka 1434 Pole Line Road East, c/o JUB Engineers/Rex Harding on behalf of Twin Falls Holding Corp.

**APPLICANT PRESENTATION:**

Rex Harding, JUB Engineers, representing the applicant stated they are here to request approval of the Crowley's Corner Subdivision preliminary plat. The property is located at the southwest corner of Locust Street North and Pole Line Road East. The northern portion of the property is currently vacant and the southern portion of the property is occupied by a commercial business named Rosebuds Florist. The property is zoned C-1 PUD the plan is combine the northerly portion and southerly portion into one lot for a commercial development. The platting process will also require right of way to be given to the City of Twin Falls. Access to the lots consists of two different locations, Locust Street North and Pole Line Road East, no additional access is being proposed.

The utilities for this property are already available; water services were paid for when the original Rex Subdivision was approved, power is already available and the overhead power will be brought to the lot underground. Run off/retention will be retained on lot 1 at the northern edge. The western half in the southern portion already has retention and there is established retention for Harbor Freight the lot adjacent.

**STAFF PRESENTATION:**

Zoning & Development Manager Carraway reviewed the request on the overhead and stated the preliminary plat for the Crowley's Corner Subdivision includes .88 acres and is zoned C-1 PUD.

This is a request to plat two (2) lots for commercial development incorporating an additional lot into the plat. The site is located on the southwest corner of Pole Line Road East and Locust

Street North. The proposed lot has an existing commercial retail business and the lot that is being incorporated into the plat is currently vacant.

Curb gutter and sidewalk exist along Pole Line Road East and Locust Street North. Upon review by the Engineering Department it has been determined that the developer could be allowed a deferral agreement for the installation of curb, gutter and sidewalk along Locust Street North until such time the street is widened. There is an existing access easement to the property from an approach off Pole Line Road East on the lot to the west. There is an existing access easement to the property on the west from an approach off Locust Street North. The easement off Locust Street North is proposed to be modified and some parking easements added. The developer will be responsible for executing a cross-use access, parking, utility and storm water drainage agreement between Lots 1 and 2 of the proposed subdivision.

City Code 10-1-1.2 (P)1 stated that the use of City's potable water supply as a primary source of irrigation water in all new developments shall be prohibited. City Code 10-12-1.2(P)3 authorizes the City Engineer to grant a variance from the requirement of a pressure irrigation system. The existing lot in the northeast corner of the proposed subdivision has an existing well. The developer has indicated they will use the existing well for non-potable water. Upon review of the proposed plat it was determined by the City Engineer that the applicant will not be required to construct a pressure irrigation system as long as the existing well is operable.

The plat is consistent with other subdivision development criteria and is in conformance with the Comprehensive Plan which designates this area as appropriate for medium density residential uses.

Zoning & Development Manager Carraway stated upon conclusion should the Commission approve the preliminary plat of Crowley's Subdivision-a PUD, as presented, staff recommends approval be subject to the following conditions:

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to a cross-use agreement between Lots 1 and 2 of the proposed subdivision for access, parking, utilities and storm water drainage being recorded before final plat recording.
3. Subject to a deferral agreement being obtained for construction of Curb, Gutter and Sidewalk along the Locust Street North frontage.

**P&Z QUESTIONS/COMMENTS:**

- Commissioner Sharp asked about the setback requirements and if the 7' right of way dedication is going to put the building even closer to the intersection once the road is widened along Locust Street North.
- Zoning & Development Manager Carraway explained that setback requirements have to be met to accommodate both the building and all of the development requirements.

**PUBLIC HEARING: OPENED**

- Jeff Rolig, Attorney, representing Harbor Freight explained that his client occupies the building located to the west of this proposed development. He stated his client has several concerns but that progress has been made between the two parties. His clients enquired about signage and received a sign plan proposal this afternoon from JUB Engineers. He reviewed the original Rex Subdivision Plat on the overhead and the Amended Rex Subdivision Plat explaining that on each of these plats there is a

designated parking easement identified on both drawings but that in the newly proposed plat this had suddenly disappeared. His client is concerned that they have lost the parking easement with this proposed change. Their lease is contractually based on making a certain amount of income and the additional traffic for the new development could impede their customers access to their store. The parking issue could be detrimental to the Harbor Freight business.

He presented a memo to the Commission asking that an additional condition for approval be added to this plat requesting that the following condition be added to the approval of the preliminary plat:

1. Subject to negotiation and acceptable resolution with the property owner of the adjacent parcel to the West of the subject property, of parking and traffic directional patterns on the subject property prior to elimination of or interference with existing parking and access easements
- Chairman Bohrn requested input from the City Attorney Wonderlich regarding the easement that has been mentioned in the testimony and how this impacts the request.
  - City Attorney Wonderlich stated he has reviewed this information and there is a parking easement on the plat however there are not notes indicating the reason for the easement or who should benefit from the easement. It is not an issue that the Commission would be responsible for deciding and approval of the preliminary plat doesn't indicate that the easement has been removed.
  - Commissioner Schouten asked if the access easement on Pole Line Road East could be any closer to Locust Street North.
  - Assistant City Engineer stated that this access cannot be moved and single directional flow onto and off of the property would not be beneficial to either property. There is going to be an additional 7 foot dedication for future development of Locust Street North which is another reason the access cannot be moved.
  - Commissioner Derricott asked if the parking at the Harbor Freight location is adequate for the use.
  - Zoning & Development Manager Carraway stated the lot is designated as commercial and met the requirements when it was originally developed. She explained that this request tonight is for plat approval and the development is not under review during this process.

### **PUBLIC HEARING: CLOSED**

### **MOTION:**

Commissioner Derricot made a motion to approve the request as presented. Commissioner Schouten seconded the motion. All members present voted in favor of the motion.

### **APPROVED, AS PRESENTED WITH THE FOLLOWING CONDITIONS**

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to a cross-use agreement between Lots 1 and 2 of the proposed subdivision for access, parking, utilities and storm water drainage being recorded before final plat recording.
3. Subject to a deferral agreement being obtained for construction of Curb, Gutter and Sidewalk along the Locust Street North frontage.

**V. PUBLIC INPUT AND/OR ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION: NONE**

**VI. UPCOMING MEETINGS:**

Next Planning & Zoning Commission public meeting is scheduled for **August 23, 2010**

**VII. ADJOURN MEETING:**

Chairman Bohrn adjourned the meeting at 06:22 pm

*Lisa A Strickland*

Lisa A Strickland  
Administrative Assistant  
Community Development Department



P.O. Box 1907

324 Hansen Street East

Twin Falls, Idaho 83303-1907

Fax: (208) 736-2293

*ENGINEERING*

(208) 735-7265

August 30, 2011

Richard Crowley  
940 Trotter Drive  
Twin Falls, ID 83301

RE: Crowley's Corner Subdivision Review 2  
Plans Received August 8, 2011

Dear Mr. Crowley,

The Engineering Department has reviewed the Final plat for Crowley's Corner Subdivision and has the following comments:

1. After discussions in our office as to the Warrantee Deed vs Title Report it has come to my attention that a Title report (without financial information) should be presented to our office so we can ensure no additional easements are missed in the platting phases and current ownership is correct.
2. Richard has presented us a copy of the Articles of incorporation but we need documentation showing he's a signator for the company.
3. Please revise notes 1 and 2 with regards to the language of "2" commercial lots rather than "1" commercial lot.
4. Please add the word "by" after the word "served" in note 5.
5. Please revise note 7 to state a 15' utility easement along Locust Street North.
6. After checking with Fritz it has come to our attention that Richard's lawyer has found documentation to the Easement that addresses issues. Please forward what conclusions determined to Fritz, Renee, and myself so we can have this issue worked out before presenting to Council

Please submit a revised final plat after incorporating comments from the construction plan review. Once the final plat is approved by the staff, we can take it to City Council for approval.

If you have any questions, please call me at 208-735-7256 or email me at [tvitek@tfid.org](mailto:tvitek@tfid.org).

Sincerely,

Troy Vitek, P.E.  
Assistant City Engineer

Cc: Rex Harding, J.U.B. Engineers  
Subdivision File

**Note:** It is the developer's responsibility to submit a complete set of plans by a registered engineer. During the plan review process, the City of Twin Falls Engineering Department will make every attempt to notify the developer of any code violations or design standard problems. If during any subsequent reviews, additional code violations or design

standard problems are found, or items that were not addressed from the previous review, additional review fees will be required. (See City of Twin Falls Code §10-12-4-1: Responsibility for Plans.) In addition, approval will be contingent upon Fire, Water, and Wastewater Departments review.

*Williams, Meservy & Lothspeich, LLP*  
*Attorneys at Law*

153 East Main Street  
Post Office Box 168  
Jerome, Idaho 83338-0168

RECEIVED  
SEP 07 2011

CITY OF TWIN FALLS  
PLANNING & ZONING

---

ROBERT E. WILLIAMS  
JAMES C. MESERVY  
JOHN B. LOTH SPEICH  
BRIAN J. WILLIAMS - ASSOCIATE  
THEODORE R. LARSEN - ASSOCIATE  

---

EUGENE D. FREDERICKSEN - RETIRED

TELEPHONE: (208) 324-2303  
TELECOPIER: (208) 324-3135  
E-MAIL: REWILLIAMS@CABLEONE.NET

September 7, 2011

Fritz A. Wonderlich  
PO Box 1812  
Twin Falls ID 83303-1812

Jeffrey E. Rolig  
PO Box 5455  
Twin Falls ID 83303

*RE: Crowley Corner Subdivision*

Gentlemen:

On Monday, September 12, 2011, the Twin Falls City Council will consider the final plat of the Crowley's Corner Subdivision.

In past correspondence dated July 5, 2011 and August 15, 2011, Jeff has asserted, on behalf of his client, KLAC Rex, LLC, an interest in certain easements appearing on the plat and amended plat of the Rex Subdivision. Crowley's Corner Subdivision is essentially a replat of a portion of the Rex Subdivision, together with additional property acquired by Twin Falls Holding Corporation in the northeast corner of the proposed final plat of the Crowley's Corner Subdivision.

I am enclosing a copy of the Warranty Deed from Cornelius J. Blom and Lanoma Blom, husband and wife, to Twin Falls Holding Corporation, dated October 26, 2010, by which Twin Falls Holding Corporation acquired Lot 1 in Block 1 of the Rex Subdivision First Amended. Note that the deed expressly includes a conveyance of the 24' wide ingress, egress easement for access to Pole line Road East, in which Jeff's client has presently claimed an interest. In contrast, the deeds from Willard D. Ihler and Dorothy M. Ihler, husband and wife to Kelly & Cohen Appliances, Inc.; from Kelly & Cohen Appliances, Inc., to Rex Radio and Television, Inc.; and from Rex Radio and Television, Inc., to KLAC Rex, LLC, Jeff's current client, make no reference at all to the easement described in the deed from the Bloms to Twin Falls Holding Corporation. Copies of these three (3) deeds, which are in the chain of title for the parcel now owned by KLAC Rex, LLC, are also enclosed.

The nonexclusive easement for ingress and egress mentioned in the deed from Rex Radio and Television, Inc., to KLAC Rex, LLC, references the Planned Unit Development Agreement that is in effect concerning all the property now owned by Twin Falls Holding Corporation and KLAC Rex, LLC. Paragraph 5(e) of the PUD Agreement provides that:

“INGRESS/EGRESS. The PUD will abandon all ingress/egress except for one approach on East Pole Line Road and one approach on Locust Street North with cross use ingress/egress easements between Kelly & Cohen Appliances, Inc., and Willard D. Ihler and Dorothy M. Ihler.”

A copy of the PUD Agreement is also included with this letter.

Martin G. Gergen, an engineer with Riedesel Engineering, Inc., in Twin Falls, was the engineer who prepared the preliminary and final plats of the Rex Subdivision. He also prepared a site plan in connection with those plats and the requirement of the City of Twin Falls that a Planned Unit Development be formed to include the real property subject to the subdivision plat and the additional .2 acre parcel in the northeast corner, then owned by Willard D. Ihler and Dorothy M. Ihler. Mr. Gergen states in his enclosed affidavit that the parking easement which Jeff's client is claiming an interest in was never intended to benefit the real property now owned by KLAC Rex, LLC. Instead, the parking easement was to benefit the .2 acre parcel owned by Mr. and Mrs. Ihler. This .2 acre parcel is now owned by Twin Falls Holding Corporation and is part of the proposed Crowley's Corner Subdivision Plat.

Mr. Gergen further explains in his affidavit that the purpose of the parking easement was to provide extra parking for the .2 acres then owned by the Ihlers to meet the parking requirements of the City of Twin Falls. It was included in the plat because of the City's PUD requirement. There is no explanation on the Plat or amended Plat of the Rex Subdivision as to what property was to be benefited by the easement. Mr. Gergen's explanation is also consistent with the close proximity of the ingress and egress easement on Pole Line Road to the parking easement.

Facts presented by the documents enclosed with this letter, when considered with the facts previously established that the parking easement remains undeveloped and that neither KLAC Rex, LLC, or its predecessors have ever demanded the use of, or used the parking easement in any way, reinforces Mr. Gergen's statement that the parking easement was never intended to benefit the real property owned by KLAC Rex, LLC.

Fritz A. Wonderlich  
Jeffrey E. Rolig  
September 7, 2011  
Page 3

My client believes the documents enclosed clearly establish that KLAC Rex, LLC, has no beneficial interest in the parking easement. Nevertheless, Twin Falls Holding Corporation remains willing to continue to work with KLAC Rex, LLC, to resolve its concerns regarding the circulation of traffic within their respective properties. The parking easement issue should no longer be viewed as an impediment to the approval of the final plat of Crowley's Corner Subdivision.

Very truly yours,

WILLIAMS, MESERVY & LOTH SPEICH, LLP



Handwritten signature of Robert E. Williams in black ink, consisting of stylized initials 'REW' followed by a long horizontal stroke.

ROBERT E. WILLIAMS

REW/bsb  
Encl.  
\\Server\share\data\Crowley, Rich\Wonderlich-Rolig 11 Sep 7th.doc



RECORDING REQUESTED BY  
First American Title Company

AND WHEN RECORDED MAIL TO:  
First American Title Company  
260 Third Avenue North  
Twin Falls, ID 83303

TWIN FALLS COUNTY  
RECORDED FOR:  
F A T C  
12:22:00 PM 10-29-2010  
**2010-021841**  
NO. PAGES: 2 FEE: \$13.00  
KRISTINA GLASCOCK  
COUNTY CLERK  
DEPUTY: Diana  
Electronically Recorded by Simplifile

Space Above This Line for Recorder's Use Only

## WARRANTY DEED

File No.: 355790-TF (1b)

Date: October 26, 2010

For Value Received, **Cornelius J. Blom and Lanoma Blom, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Twin Falls Holding Corporation**, an Idaho corporation, hereinafter called the Grantee, whose current address is **940 Trotter, Twin Falls, ID 83301**, the following described premises, situated in **Twin Falls County, Idaho**, to-wit:

PARCEL 1:

**LOT 1 IN BLOCK 1 OF REX SUBDIVISION FIRST AMENDED, A RESUBDIVISION AND RENUMBERING OF LOT 2, REX SUBDIVISION, TWIN FALLS COUNTY, IDAHO, RECORDED IN BOOK 23 OF PLATS, PAGE 49.**

PARCEL 2:

**A 24 FOOT WIDE INGRESS/EGRESS EASEMENT FOR ACCESS TO POLE LINE ROAD EAST.**

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.



ORDER NO. 8-57124

Twin Falls County, Idaho  
Recorded for:  
ALLIANCE TITLE  
2000-01-23, 1998  
1998-01-23-03  
No. of Pages: 2 Fee: \$0.00  
LINDA S. WALKER  
Notary Public  
County: SL

WARRANTY DEED

FOR VALUE RECEIVED WILLARD D. IHLER AND DOROTHY M. IHLER, HUSBAND AND WIFE, the GRANTORS, do hereby grant, bargain, sell and convey unto KELLY & COHEN APPLIANCES, INC., the GRANTEEES, whose current address is 2675 Needmore Rd., Dayton, OH 45414, the following described premises, in Twin Falls County, Idaho, to wit:

See Exhibit "A"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances except current year taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record and they will warrant and defend the same from all lawful claims whatsoever.

DATED: July 17, 1998

Willard D. Ihler      Dorothy M. Ihler  
WILLARD D. IHLER      DOROTHY M. IHLER

STATE OF IDAHO, COUNTY OF Twin Falls

On this 17<sup>th</sup> day of July, 1998, before me, a notary public in and for the said State, personally appeared Willard D. Ihler and Dorothy M. Ihler, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Linda S. Walker  
Notary Public  
Residing at Twin Falls, ID  
Commission Expires:

Linda S. Walker  
Notary Public State of Idaho  
231 2nd. Street North  
Twin Falls, ID. 83301  
Comm. Expires 10/30/2001

EXHIBIT A

A parcel of land being a part of the East 300.00 feet of Lot 9 of Eoff Tract, Twin Falls County Idaho, as shown on the official Plat of said Tract as recorded in the Office of the Recorder of said County in Plat Book No. 1, page 29 and located in the NW1/4NW1/4 of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County Idaho, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 3;  
THENCE South 89°43'48" East a distance of 1321.02 feet along the Northerly boundary of said NE1/4NE1/4 to the Northeast corner thereof;  
THENCE South 0°56'46" West a distance of 25.00 feet to the Northeast corner of said Lot 9 of the Eoff Tract;  
THENCE South 0°56'46" West a distance of 110.00 feet along the Easterly boundary of said Lot 9 to the True Point of Beginning;  
THENCE South 0°56'46" West a distance of 200.06 feet to the Southeast corner of said Lot 9;  
THENCE North 89°43'47" West a distance of 300.00 feet to the Southerly boundary of said Lot 9;  
THENCE North 0°56'46" East a distance of 285.06 feet;  
THENCE South 89°43'48" East a distance of 200.00 feet parallel with the Northerly boundary of said Lot 9;  
THENCE South 0°56'46" West a distance of 85.00 feet parallel with the Easterly boundary of said Lot 9;  
THENCE South 89°43'48" East a distance of 100.00 feet parallel with the Northerly boundary of said Lot 9 to the True Point of Beginning.

*di W.T.*



Twin Falls County, Idaho  
Recorded for:  
ALLIANCE TITLE  
1998-02083  
Nov. 08, 1998  
No. of Pages: 2 Fee: \$8.00  
ROBERT S. FORT  
Ex-officio Recorder  
Deputy: VF

WARRANTY DEED

4-57738

For Value Received, KELLY & COHEN APPLIANCES, INC., an Ohio corporation, the Grantor, does hereby grant, bargain, sell and convey unto K&A RADIO AND TELEVISION, INC., an Ohio corporation, whose address is 2875 Meedmore Road, Dayton, Ohio 45414, the Grantee, the premises located in Twin Falls County, Idaho, as more fully described on Exhibit A attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee that it is the owner in fee simple of said premises, that it is free from all encumbrances EXCEPT current taxes and easements of record or in view and that it will warrant and defend the same from all third claims whatsoever.

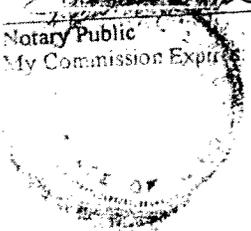
Dated: November 5, 1998

Kelly & Cohen Appliances, Inc.  
By: [Signature]  
Edward M. Kress, Secretary

STATE OF OHIO  
(ss.  
COUNTY OF MONTGOMERY)

On this 5<sup>th</sup> day of November, 1998, before me, the undersigned, a Notary Public, personally appeared, Edward M. Kress, Secretary of Kelly & Cohen Appliances, Inc, an Ohio corporation, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of the corporation.

[Signature]  
Notary Public  
My Commission Expires:



KAREN R. ADAMS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147 03 O. R. C.

SHEET A

PROPERTY DESCRIPTION  
KELLY & COHEN APPLIANCES, INC

A parcel of land being a part of the East 300.00 feet of Lot 9 of the EOFF Tract, Twin Falls County, Idaho, as shown on the Official Plat of said tract as recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 and located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows

Beginning at the northwest corner of said Section 3,

THENCE South 89°43'48" East a distance of 1321.02 feet along the northerly boundary of said NE1/4NE1/4 to the northeast corner thereof;

THENCE South 0°56'46" West a distance of 25.00 feet to the northeast corner of said Lot 9 of the EOFF Tract;

THENCE South 0°56'46" West a distance of 118.00 feet along the easterly boundary of said Lot 9 to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 200.06 feet to the southeast corner of said Lot 9;

THENCE North 89°43'47" West a distance of 300.00 feet along the southerly boundary of said Lot 9;

THENCE North 0°56'46" East a distance of 265.06 feet;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said Lot 9;

THENCE South 0°56'46" West a distance of 35.00 feet parallel with the easterly boundary of said Lot 9;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said Lot 9 to the TRUE POINT OF BEGINNING, containing 1.77 acres more or less.



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

TWIN FALLS COUNTY  
RECORDED FOR:  
ALLIANCE TITLE  
4:20:31 pm 05-10-2007  
2007-011198  
NO. PAGES: 4 FEE: 112.00  
CRISTINA GLASCOCK  
COUNTY CLERK  
DEPUTY: BRUNTER

4070606451

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**Special Warranty Deed**

For the consideration of Ten Dollars (\$10.00), and other valuable considerations, REX RADIO AND TELEVISION, INC., an Ohio corporation ("Grantor"), does hereby convey to KLAC Rex, LLC, a Delaware limited liability company ("Grantee"), whose current address is c/o Klaff Realty, LP, 122 South Michigan Avenue, Suite 1000, Chicago, IL 60603-6116, the real property located in Twin Falls County, Idaho described as Parcel No. RPT44850000010A on Exhibit A attached hereto and made a part hereof.

TOGETHER WITH: any and all rights, benefits, privileges, easements, tenements, hereditaments, rights-of-way and other appurtenances thereon or in any way appertaining thereto;

SUBJECT ONLY TO: (i) real estate taxes and assessments which are a lien but not yet due and payable, (ii) building and zoning laws, ordinances and regulations, (iii) public streets and rights of way and (iv) such other matters set forth on Exhibit B attached hereto and made a part hereof.

And the Grantor hereby binds itself and its successors to warrant and defend the title against all acts of the Grantor herein, and no other, subject to the matters set forth.



**EXHIBIT "A"**

**Lot 1 of Rex Subdivision, according to the official plat thereof, filed in Book 17 of Plats at Page(s) 18, Official Records of Twin Falls County, Idaho.**

**TOGETHER WITH a non-exclusive easement for ingress and egress contained in the Planned Unit Development Agreement recorded in Instrument No. 1998-017149 of Official Records.**

EXHIBIT "B"

All covenants, conditions, easements and restrictions of record



PUD-212  
 Twin Falls County, Idaho  
 Recorded for:  
 CITY OF TWIN FALLS  
 11:31am Sep. 22, 1998  
 1998-017149  
 No. of Pages: 11 Fee: \$33.00  
 ROBERT S. FORT  
 Ex-Officio Recorder  
 Deputy: SL

KELLY & COHEN APPLIANCES, INC.  
 and  
 WILLARD D. IHLER and DOROTHY M. IHLER

PLANNED UNIT DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into this <sup>14</sup> day of July, 1998, by and between the CITY OF TWIN FALLS, a municipal corporation, State of Idaho (hereinafter call "City"), and KELLY & COHEN APPLIANCES, INC., an Ohio corporation, doing business as Rex and Willard D. Ihler and Dorothy M. Ihler, husband and wife (hereinafter called "Developer") whose addresses are 2875 Nædmore Road, Dayton, Ohio 45414 and 1434 Pole Line Road, Twin Falls, ID 83301.

RECITALS

WHEREAS, Kelly & Cohen Appliances, Inc., an Ohio corporation, is the equitable title holder to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A" attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 1.77 acres (hereinafter called "Property"); and

WHEREAS, Willard D. Ihler and Dorothy M. Ihler, husband and wife, are the equitable title holders to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A1" attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 0.20 acres (hereinafter called "Property");

WHEREAS, Developer intends to develop the Property; and

WHEREAS, Developer had made request of the City of Twin Falls to develop the property as a C-1 Commercial Highway District (hereinafter called "Project") and has submitted to the City a development plan thereof (attached as Exhibit "B") which has been approved for development as a "C-1 PUD" by the City Council of the City; and

WHEREAS, City, by and through its City Council, has agreed to the development of said land within the City of Twin Falls, Idaho, subject to certain terms, conditions and understandings, which terms, conditions and understandings are the subject of this agreement.

COVENANTS

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Developer and City agree as follows:

1. NATURE OF THE AGREEMENT. This agreement shall become part of the "C-1 PUD" zone with respect to the Property upon its full execution and recording. Developer and their assigns or successors in interest, as well as City and its assigns or successors (if any), shall be bound by the terms and conditions contained herein.

2. NATURE OF THE DEVELOPMENT. It is agreed by the parties hereto that certain language and requirements pertaining to the "C-1 PUD" zone shall be interpreted as follows:

A. LOT AREA. The total area of the lot is 85,518 square feet. The lot will be developed in three phases and has two property owners. The REX property consists of 77,018 square feet and the IHLER property consists of 8,500 square feet. The REX property will be developed in two phases. First the west portion of the lot will be developed. The east portion of the REX lot will be developed in the future. The IHLER lot will be developed in the future.

B. USES. The use language of the underlying "C-1" zone shall apply with regard to permitted uses, special uses, and prohibited uses on the Property or any portion thereof, as shown on the Development Plan.

3. WATER, STREET, SEWER AND DRAINAGE IMPROVEMENTS. Developer shall be responsible for the design and construction of water, street, sewer and drainage systems on the Property (hereinafter called "Improvements") as described herein in accordance with City standards.

A. IMPROVEMENT PLANS. Developer shall as to each phase of its development, file or cause to be filed with the City a complete set of plans for that development phase, showing Public Improvements such as sewer, water, curb and gutter, contemplated within that phase of the development (hereinafter call "Improvement Plans"). The Improvement Plans and Improvements shown thereon shall meet with the approval of the City, which approval shall be given if such plans conform with published City requirements. Only those improvements subject to City standards will need to be submitted.

B. IMPROVEMENT DESIGN AND CONSTRUCTION. Developer shall cause to be designed, constructed and installed, in accordance with the approved Improvement Plans and at his expense, Improvements shown on the Improvement Plans. Notwithstanding the foregoing, nothing in this agreement shall prohibit City participation in the cost or financing of improvements on the Property if mutually agreed to by the parties hereto.

The lot will be connected to City of Twin Falls water and sewer system.

C. PHASED CONSTRUCTION. The development of the Project, including installation of required Improvements, may be completed in phases. Any future phase of the development will require the appropriate changes to the Development Plan and P.C.D. Agreement and will need to be resubmitted to the city. Developer shall provide the City with written notification of when and of what phase, or phases, of said Improvements it intends to complete at the time; and agrees to make such modifications and/or construct any temporary facilities necessitated by such phased construction work as shall be required and approved by the City, which approval shall not be unreasonably withheld.

D. CONSTRUCTION SUPERVISION. Developer shall use a qualified construction engineer or supervisor to supervise the construction inspection and testing of the work as necessary to ensure that all such Improvements are constructed in accordance with the approved Improvement Plans.

E. NONCOMPLIANCE. In the event any of the requirements with regard to the installation of said Improvements are not complied with, the City shall give written notice to Developer of said noncompliance. Developer shall cure a said noncompliance within thirty days of this receipt of notice (or, in the case of a noncompliance that will take in excess of thirty (30) days to cure, Developer shall commence to cure within thirty days of receipt of notice and diligently pursue the same to completion). In the event Developer fails to cure said noncompliance in the manner set forth hereinabove, the City shall have the right to withhold the issuance of any future building permits, and certificates of occupancy within that phase of such "C-1 PUD" until such time as requirements specified in the Section 3 have been complied with; PROVIDED HOWEVER Developer shall have the right to appear before the City Council at any regular meeting after any building permits and certificates of occupancy should be issued. The City Council shall then in good faith and in an objective manner decide whether said building permits and certificates of occupancy should be issued, and its decision shall be final, except that the rights of the parties are preserved at law and equity.

F. FEES. Developer shall pay, or cause to be paid, to City applicable fees, if any, with regard to the installation of Improvements pursuant to the Improvement Plans.

G. DEDICATION OF IMPROVEMENTS. The city hereby agrees to accept maintenance responsibility for the public improvements upon their completion to City standards.

H. RESPONSIBILITY. Kelly & Cohen Appliances, Inc. shall have no responsibility for the development of or costs associated with such development of the HLBP property. Willard D. Ihler and Dorothy M. Ihler

shall have no responsibility for the development of, or costs associated with such development of the REX property.

4. PLATS. No plat will be submitted for this lot split. However, if the REX lot is split in the future a subdivision will be required.

5. INDIVIDUAL PARCEL DEVELOPMENT CRITERIA. The property or any portion thereof shall be developed in accordance with criteria set forth in this Section 5.

A. APPROVAL AND CONSTRUCTION. All public improvements shall be constructed in accordance with engineered drawings and specifications, describing in reasonable detail the work to be performed, which drawings and specifications shall first be approved by City and meet City standards, which approval shall not be unreasonably withheld.

B. BUILDING STANDARDS. Buildings and Public Improvements shall comply with City building and fire codes, and other applicable City ordinances.

C. LANDSCAPING. The landscaping shall be as per current City zoning ordinances and will have a minimum 15 foot landscape buffer along Locust Street North and a minimum 30 foot landscape buffer along Pole Line Road. Within the 30 foot landscape buffer along Pole Line Road, 50 percent of the linear footage of landscaping shall have berms with a ridge elevation of at least 13 inches in height with at least 50 percent of the berming having a minimum ridge elevation of 30 inches in height. Each separate section of the landscaping strip shall contain trees or shrubs. For all landscaping within the development, the required minimum size landscaped area shall, as a minimum, have the following plant life: one tree per 500 square feet of landscaped area; one bush per 100 square feet of landscaped area.

D. APPROACHES. The Developer will install an arterial approach on East Pole Line Road and an arterial approach on Locust Street North. The total approaches will be limited to one on East Pole Line Road and one on Locust Street North after any development is completed for the entire PUD.

E. INGRESS/EGRESS. The PUD will abandon all ingress/egress except for one approach on East Pole Line Road and one approach on Locust Street North, with cross use ingress/egress easements between Kelly & Cohen Appliances, Inc. and Willard D. Ehler and Dorothy M. Ehler.

F. STORM WATER FLOOD PLAIN. The Developer will provide an acceptable stormwater management/flood plain mitigation plan.

6. TIME LIMITATION. "C-1 PUD" zone designation on the property is expressly conditioned upon submission to the City Council of a final development plan of the first phase within one (1) year from the date hereof.

7. PARKING. No on street parking will be allowed, adequate parking spaces meeting city code will be located on all phases of the property and will be properly signed and marked. Each phase of development will provide the number of parking stalls required for that phase.

8. GENERAL PROVISIONS.

A. COOPERATION. The parties hereto agree to cooperate each with the other. Developer shall submit to the City all plans, specifications and working drawings required by the City.

B. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the parties concerning the property and improvements described herein, and no amendment or modification to this agreement shall be valid or effective unless reduced to writing and signed by the parties. It is understood that a standard City Development Agreement will be required for each phase of development.

C. APPLICABLE LAW. This agreement shall be construed in accordance with the laws of the State of Idaho.

D. NOTICES. If notices from one party to the other are desired or required hereunder, such notices shall be delivered or mailed to the party to receive such at this address last known to the sender of such notice. Notices shall be deemed received on the date of hand delivery or upon seventy-two (72) hours following deposit in the United States mail, if properly addressed, stamped and sent with "return receipt requested". On the date of this agreement, the addresses of the parties are as follows:

DEVELOPER: Richard E. Santia, Vice President of Corporate  
Development  
Kelly & Cohen Appliances, Inc.  
2875 Needmore Road  
Dayton, Ohio 45414

With a copy to: Edward M. Kress  
Chernesky, Heyman & Kress P.L.L.  
1200 Courthouse Plaza, S.W.  
Dayton, Ohio 45402

wife

DEVELOPER: Willard D. Ihler and Dorothy M. Ihler, a husband and  
1434 Pole Lane Road East  
Twin Falls, Idaho 83301

CITY: City of Twin Falls  
P.O. Box 1907  
111 Second Avenue East  
Twin Falls, ID 83303-1907

E. SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the successors, assigns and legal representatives of the parties hereto.

F. SEVERABILITY. In the event any portion of this agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be deemed severed from this agreement, and the remaining portions shall not be affected thereby.

G. SIGNATORIES. Each of the persons executing this agreement hereby represents and warrants that he or she is duly authorized and empowered to so act on behalf of the entity for which he or she is signing and that this agreement is binding on, and enforceable against such entities.

H. EFFECTIVE DATE. This "PUD" Agreement shall become valid and binding only upon its approval by City, through its City Council, and upon its execution by the Mayor and Developer.

I. ATTORNEYS' FEES. In the event that either party should be required to retain an attorney because of the default or breach of the other or to pursue any other remedy provided by law, that party which prevails in any litigation shall be entitled to a reasonable attorney's fee.

J. CONSTRUCTION. Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that both parties have participated in the preparation hereof.

K. ATTACHMENTS. All attachments to this Agreement and recitals are incorporated herein and made a part hereof as if set forth in full.



STATE OF OHIO

ss.

County of MONTGOMERY)

On this 14th day of July 1998, before me Karen R Adams a notary public in and for said State, personally appeared Edward M. Kress, Secretary, of KELLY & COHEN APPLIANCE, INC., known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public Karen R Adams  
Residing at Middletown, Ohio  
Commission expires \_\_\_\_\_

KAREN R. ADAMS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 O. R. C.

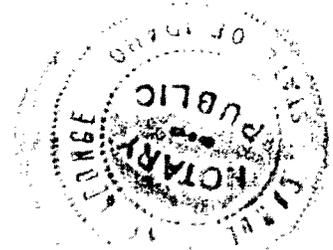
STATE OF IDAHO

ss.

County of Twin Falls )

On this 15th day of July, 1998, before me Carol Jean Dege a notary public in and for said State, personally appeared Willard D. Miller, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

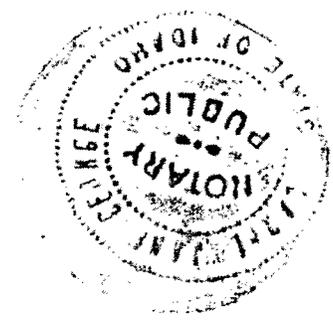
Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-99



STATE OF IDAHO )  
 ) ss.  
County of Twin Falls )

On this 15<sup>th</sup> day of July, 1998, before me Paul James George notary public in and for said State, personally appeared Dorothy M. Ihler, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-98



PROPERTY DESCRIPTION  
KELLY & COHEN APPLIANCES, INC.

A parcel of land being a part of the East 300.00 feet of Lot 9 of the EOFF Tract, Twin Falls County, Idaho, as shown on the Official Plat of said tract as recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 and located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South 39°43'48" East a distance of 1321.02 feet along the northerly boundary of said NE1/4NE1/4 to the northeast corner thereof;

THENCE South 0°56'46" West a distance of 25.00 feet to the northeast corner of said Lot 9 of the EOFF Tract;

THENCE South 0°56'46" West a distance of 113.00 feet along the easterly boundary of said Lot 9 to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 200.06 feet to the southeast corner of said Lot 9;

THENCE North 39°43'47" West a distance of 300.00 feet along the southerly boundary of said Lot 9;

THENCE North 0°56'45" East a distance of 285.06 feet;

THENCE South 89°43'48" East a distance of 200.00 feet parallel with the northerly boundary of said Lot 9;

THENCE South 0°56'46" West a distance of 35.00 feet parallel with the easterly boundary of said Lot 9;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said Lot 9 to the TRUE POINT OF BEGINNING, containing 1.77 acres more or less.



Engineers Surveyors Planners

June 15, 1998

Property Description

For

Clark, Geer & Latham Associates

0.20 Acre Parcel

A parcel of land located in the East 100 feet of Lot 9, of the EOFF Tract, Twin Falls County, Idaho as shown on the Official Plat of said tract and recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South 89°43'48" East a distance of 1321.03 feet along the northerly boundary of said NW1/4NW1/4 to the northeast corner of said NW1/4NW1/4 and the northeast corner of said EOFF Tract;

THENCE South 0°56'46" West a distance of 58.00 feet along the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 85.00 feet along the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract;

THENCE North 89°43'48" West a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4;

THENCE North 0°56'46" East a distance of 85.00 feet parallel with the easterly boundary of said NW1/4NW1/4;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4 to the TRUE POINT OF BEGINNING, containing 0.20 acres more or less



*Carroll Zimmerman*





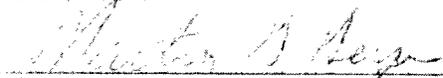


and was owned by Willard and Dorothy Ihlers.

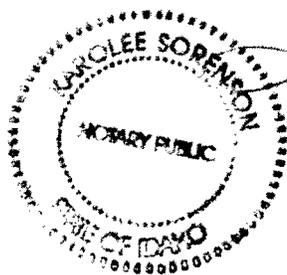
5. The Site Plan copied and attached hereto as EXHIBIT A was prepared for Rex TV and Appliances, Inc., in response to the requirement of the City of Twin Falls for the PUD.
6. In 1998 a PUD Agreement with the City of Twin Falls was executed by Rex TV and Appliances, Inc., and by Mr. and Mrs. Ihlers. A true and correct copy of the PUD Agreement is copied and attached hereto as EXHIBIT B. The legal description in the PUD Agreement for the parcel of .20 acres describes the northeast corner of the Site Plan then owned by Mr. and Mrs. Ihlers.
7. The twenty foot (20') parking easement running north and south, and lying immediately west of the Ihlers .20 acre parcel, as shown on the Site Plan, was intended to benefit the .20 acre parcel owned by Mr. and Mrs. Ihlers. The City of Twin Falls required additional parking spaces for the property owned by Mr. and Mrs. Ihlers and the parking easement was included on the Site Plan in order to provide the necessary parking. The parking easement was depicted on the preliminary and final plats for the same reason. The twenty foot (20') parking easement was not intended to benefit Lot 1 of the Rex Subdivision.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 1<sup>st</sup> day of September, 2011.

  
MARTIN G. GERGEN

SUBSCRIBED AND SWORN to before me this 7<sup>th</sup> day of September, 2011.



Kari Lee Sorenson  
NOTARY PUBLIC  
Residing at: Wain Falls, ID  
My commission expires: 6/21/2016

PUD-212

Twin Falls County, Idaho  
 Recorded For:  
 CITY OF TWIN FALLS  
 11:31am Sep. 22, 1998  
 1998-017149  
 No. of Pages: 11 Fee: \$33.00  
 ROBERT S. FORT  
 Ex-Officio Recorder  
 Deputy: SL

KELLY & COHEN APPLIANCES, INC.  
 and  
 WILLARD D. IHLER and DOROTHY M. IHLER

PLANNED UNIT DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into this 14 day of July, 1998, by and between the CITY OF TWIN FALLS, a municipal corporation, State of Idaho (hereinafter call "City"), and KELLY & COHEN APPLIANCES, INC., an Ohio corporation, doing business as Rex and Willard D. Ihler and Dorothy M. Ihler, husband and wife (hereinafter called "Developer") whose addresses are 2875 Needmore Road, Dayton, Ohio 45414 and 1434 Pole Line Road, Twin Falls, ID 83301.

RECITALS

WHEREAS, Kelly & Cohen Appliances, inc., an Ohio corporation, is the equitable title holder to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A", attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 1.77 acres (hereinafter called "Property"); and

WHEREAS, Willard D. Ihler and Dorothy M. Ihler, husband and wife, are the equitable title holders to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A1", attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 0.20 acres (hereinafter called "Property")

WHEREAS, Developer intends to develop the Property; and

WHEREAS, Developer had made request of the City of Twin Falls to develop the property as a C-1 Commercial Highway District (hereinafter called "Project") and has submitted to the City a development plan thereof (attached as Exhibit "B") which has been approved for development as a "C-1 PUD" by the City Council of the City; and

WHEREAS, City, by and through its City Council, has agreed to the development of said land within the City of Twin Falls, Idaho, subject to certain terms, conditions and understandings, which terms, conditions and understandings are the subject of this agreement.

COVENANTS

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Developer and City agree as follows:

1. NATURE OF THE AGREEMENT. This agreement shall become part of the "C-1 PUD" zone with respect to the Property upon its full execution and recording. Developer and their assigns or successors in interest, as well as City and its assigns or successors (if any), shall be bound by the terms and conditions contained herein.

2. NATURE OF THE DEVELOPMENT. It is agreed by the parties hereto that certain language and requirements pertaining to the "C-1 PUD" zone shall be interpreted as follows:

A. LOT AREA. The total area of the lot is 85,518 square feet. The lot will be developed in three phases and has two property owners. The REX property consists of 77,018 square feet and the IHLER property consists of 8,500 square feet. The REX property will be developed in two phases. First the west portion of the lot will be developed. The east portion of the REX lot will be developed in the future. The IHLER lot will be developed in the future.

B. USES. The use language of the underlying "C-1" zone shall apply with regard to permitted uses, special uses, and prohibited uses on the Property or any portion thereof, as shown on the Development Plan.

3. WATER, STREET SEWER AND DRAINAGE IMPROVEMENTS. Developer shall be responsible for the design and construction of water, street, sewer and drainage systems on the Property (hereinafter called "Improvements") as described herein in accordance with City standards.

A. IMPROVEMENT PLANS. Developer shall, as to each phase of its development, file or cause to be filed with the City a complete set of plans for that development phase, showing Public Improvements such as sewer, water, curb and gutter, contemplated within that phase of the development (hereinafter call "Improvement Plans"). The Improvement Plans and improvements shown thereon shall meet with the approval of the City, which approval shall be given if such plans conform with published City requirements. Only those improvements subject to City standards will need to be submitted.

B. IMPROVEMENT DESIGN AND CONSTRUCTION. Developer shall cause to be designed, constructed and installed, in accordance with the approved Improvement Plans and at its expense, Improvements shown on the Improvement Plans. Notwithstanding the foregoing, nothing in this agreement shall prohibit City participation in the cost or financing of improvements on the Property if mutually agreed to by the parties hereto.

The lot will be connected to City of Twin Falls water and sewer system.

C. PHASED CONSTRUCTION. The development of the Project, including installation of required Improvements, may be completed in phases. Any future phase of the development will require the appropriate changes to the Development Plan and P.U.D. Agreement and will need to be resubmitted to the city. Developer shall provide the City with written notification of when and of what phase, or phases, of said Improvements it intends to complete at the time; and agrees to make such modifications and/or construct any temporary facilities necessitated by such phased construction work as shall be required and approved by the City, which approval shall not be unreasonably withheld.

D. CONSTRUCTION SUPERVISION. Developer shall use a qualified construction engineer or supervisor to supervise the construction inspection and testing of the work as necessary to ensure that all such Improvements are constructed in accordance with the approved Improvement Plans.

E. NONCOMPLIANCE. In the event any of the requirements with regard to the installation of said Improvements are not complied with, the City shall give written notice to Developer of said noncompliance. Developer shall cure a said noncompliance within thirty days of this receipt of notice (or, in the case of a noncompliance that will take in excess of thirty (30) days to cure, Developer shall commence to cure within thirty days of receipt of notice and diligently pursue the same to completion). In the event Developer fails to cure said noncompliance in the manner set forth hereinabove, the City shall have the right to withhold the issuance of any future building permits, and certificates of occupancy within that phase of such "C-1 PUD" until such time as requirements specified in the Section 3 have been complied with; PROVIDED, HOWEVER, Developer shall have the right to appear before the City Council at any regular meeting after any building permits and certificates of occupancy should be issued. The City Council shall then in good faith and in an objective manner decide whether said building permits and certificates of occupancy should be issued, and its decision shall be final, except that the rights of the parties are preserved at law and equity.

F. FEES. Developer shall pay, or cause to be paid, to City applicable fees, if any, with regard to the installation of Improvements pursuant to the Improvement Plans.

G. DEDICATION OF IMPROVEMENTS. The city hereby agrees to accept maintenance responsibility for the public improvements upon their completion to City standards.

H. RESPONSIBILITY. Kelly & Cohen Appliances, Inc. shall have no responsibility for the development of, or costs associated with such development of the IHLER property. Willard D. Ihler and Dorothy M. Ihler

shall have no responsibility for the development of, or costs associated with such development of the REX property.

4. PLATS. No plat will be submitted for this lot split. However, if the REX lot is split in the future a subdivision will be required.

5. INDIVIDUAL PARCEL DEVELOPMENT CRITERIA. The property or any portion thereof shall be developed in accordance with criteria set forth in this Section 5.

A. APPROVAL AND CONSTRUCTION. All public improvements shall be constructed in accordance with engineered drawings and specifications, describing in reasonable detail the work to be performed, which drawings and specifications shall first be approved by City and meet City standards, which approval shall not be unreasonably withheld.

B. BUILDING STANDARDS. Buildings and Public Improvements shall comply with City building and fire codes, and other applicable City ordinances.

C. LANDSCAPING. The landscaping shall be as per current City zoning ordinances and will have a minimum 15 foot landscape buffer along Locust Street North and a minimum 30 foot landscape buffer along Pole Line Road. Within the 30 foot landscape buffer along Pole Line Road, 50 percent of the linear footage of landscaping shall have berms with a ridge elevation of at least 18 inches in height with at least 50 percent of the berming having a minimum ridge elevation of 30 inches in height. Each separate section of the landscaping strip shall contain trees or shrubs. For all landscaping within the development, the required minimum size landscaped area shall, as a minimum, have the following plant life: one tree per 500 square feet of landscaped area; one bush per 100 square feet of landscaped area.

D. APPROACHES. The Developer will install an arterial approach on East Pole Line Road and an arterial approach on Locust Street North. The total approaches will be limited to one on East Pole Line Road and one on Locust Street North after any development is completed for the entire PUD.

E. INGRESS/EGRESS. The PUD will abandon all ingress/egress except for one approach on East Pole Line Road and one approach on Locust Street North, with cross use ingress/egress easements between Kelly & Cohen Appliances, Inc. and Willard D. Hler and Dorothy M. Hler.

F. STORM WATER / FLOOD PLAN. The Developer will provide an acceptable stormwater management/flood plain mitigation plan.

6. TIME LIMITATION. "C-1 PUD" zone designation on the property is expressly conditioned upon submission to the City Council of a final development plan of the first phase within one (1) year from the date hereof.

7. PARKING. No on street parking will be allowed, adequate parking spaces meeting city code will be located on all phases of the property and will be properly signed and marked. Each phase of development will provide the number of parking stalls required for that phase.

8. GENERAL PROVISIONS.

A. COOPERATION. The parties hereto agree to cooperate each with the other. Developer shall submit to the City all plans, specifications and working drawings required by the City.

B. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the parties concerning the property and improvements described herein, and no amendment or modification to this agreement shall be valid or effective unless reduced to writing and signed by the parties. It is understood that a standard City Development Agreement will be required for each phase of development.

C. APPLICABLE LAW. This agreement shall be construed in accordance with the laws of the State of Idaho.

D. NOTICES. If notices from one party to the other are desired or required hereunder, such notices shall be delivered or mailed to the party to receive such at this address last known to the sender of such notice. Notices shall be deemed received on the date of hand delivery or upon seventy-two (72) hours following deposit in the United States mail, if properly addressed, stamped and sent with "return receipt requested". On the date of this agreement, the addresses of the parties are as follows:

DEVELOPER: Richard E. Santia, Vice President of Corporate  
Development  
Kelly & Cohen Appliances, Inc.  
2375 Needmore Road  
Dayton, Ohio 45414

With a copy to: Edward M. Kress  
Chernesky, Heyman & Kress P.L.L.  
1100 Courthouse Plaza, S.W.  
Dayton, Ohio 45402

wife

DEVELOPER: Willard D. Ihler and Dorothy M. Ihler, a husband and  
1434 Pole Lone Road East  
Twin Falls, Idaho 83301

CITY: City of Twin Falls  
P.O. Box 1907  
321 Second Avenue East  
Twin Falls, ID 83303-1907

E. SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the successors, assigns and legal representatives of the parties hereto.

F. SEVERABILITY. In the event any portion of this agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be deemed severed from this agreement, and the remaining portions shall not be affected thereby.

G. SIGNATORIES. Each of the persons executing this agreement hereby represents and warrants that he or she is duly authorized and empowered to so act on behalf of the entity for which he or she is signing and that this agreement is binding on, and enforceable against such entities.

H. EFFECTIVE DATE. This "PUD" Agreement shall become valid and binding only upon its approval by City, through its City Council, and upon its execution by the Mayor and Developer.

I. ATTORNEYS' FEES. In the event that either party should be required to retain an attorney because of the default or breach of the other or to pursue any other remedy provided by law, that party which prevails in any litigation shall be entitled to a reasonable attorney's fee.

J. CONSTRUCTION. Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party, or reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that both parties have participated in the preparation hereof.

K. ATTACHMENTS. All attachments to this Agreement and recitals are incorporated herein and made a part hereof as if set forth in full.

L. CAPTIONS. The captions, section and paragraph numbers appearing in this agreement are inserted only as a matter of convenience and shall in no way affect interpretation of this agreement.

IN WITNESS WHEREOF, the City has affixed its seal and caused these presents to be executed by its Mayor on the date above written.

CITY OF TWIN FALLS

By: Gale Kleinkopf  
Mayor

KELLY & COHEN APPLIANCES, INC.

By: Edward M. Kress  
Edward M. Kress, Secretary

OWNER

By: Willard D. Ihler  
Willard D. Ihler, Owner

By: Dorothy M. Ihler  
Dorothy M. Ihler, Owner

STATE OF IDAHO

County of Twin Falls

On this 16<sup>th</sup> day of July, 1998, before me Joanne Hall a notary public in and for said State, personally appeared MAYOR GALE KLEINKOPF, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.



Joanne Hall  
Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 12/31/2000

STATE OF OHIO )

County of MONTGOMERY )  
ss.

On this 14th day of July 1998, before me Karen R Adams a notary public in and for said State, personally appeared Edward M. Kress, Secretary, of KELLY & COHEN APPLIANCE, INC., known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public Karen R Adams  
Residing at Middletown, Ohio  
Commission expires \_\_\_\_\_

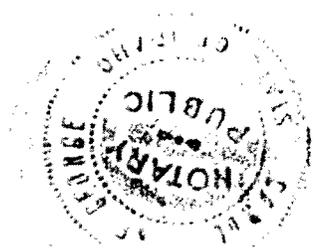
KAREN R. ADAMS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 O. R. C.

STATE OF IDAHO )

County of Twin Falls )  
ss.

On this 15th day of July, 1998, before me Carol Jean George a notary public in and for said State, personally appeared Willard D. Ihler, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

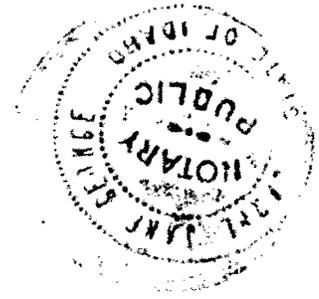
Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-99



STATE OF IDAHO )  
County of Twin Falls ) ss.

On this 15<sup>th</sup> day of July, 1998, before me Paul James George a notary public in and for said State, personally appeared Dorothy M. Inher, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-98



PROPERTY DESCRIPTION  
KELLY & COHEN APPLIANCES, INC.

A parcel of land being a part of the East 300.00 feet of Lot 9 of the EOFF Tract, Twin Falls County, Idaho, as shown on the Official Plat of said tract as recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 and located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South 89°43'48" East a distance of 1321.02 feet along the northerly boundary of said NE1/4NE1/4 to the northeast corner thereof;

THENCE South 0°56'46" West a distance of 25.00 feet to the northeast corner of said Lot 9 of the EOFF Tract;

THENCE South 0°56'46" West a distance of 118.00 feet along the easterly boundary of said Lot 9 to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 200.06 feet to the southeast corner of said Lot 9;

THENCE North 89°43'47" West a distance of 300.00 feet along the southerly boundary of said Lot 9;

THENCE North 0°56'46" East a distance of 285.06 feet;

THENCE South 89°43'48" East a distance of 200.00 feet parallel with the northerly boundary of said Lot 9;

THENCE South 0°56'46" West a distance of 35.00 feet parallel with the easterly boundary of said Lot 9;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said Lot 9 to the TRUE POINT OF BEGINNING, containing 1.77 acres more or less.



Engineers Surveyors Planners

June 15, 1998

Property Description

For

Clark, Geer & Latham Associates

0.20 Acre Parcel

A parcel of land located in the East 100 feet of Lot 9, of the EOFF Tract, Twin Falls County, Idaho as shown on the Official Plat of said tract and recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South 39°43'48" East a distance of 1321.03 feet along the northerly boundary of said NW1/4NW1/4 to the northeast corner of said NW1/4NW1/4 and the northeast corner of said EOFF Tract;

THENCE South 0°56'46" West a distance of 58.00 feet along the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 85.00 feet along the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract;

THENCE North 39°43'48" West a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4;

THENCE North 0°56'46" East a distance of 85.00 feet parallel with the easterly boundary of said NW1/4NW1/4;

THENCE South 39°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4 to the TRUE POINT OF BEGINNING, containing 0.20 acres more or less.

*Donna Carroll Zimmerman*  
865  
15-93  
DONNA CARROLL ZIMMERMAN





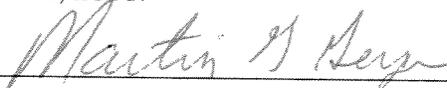


and was owned by Willard and Dorothy Ihlers.

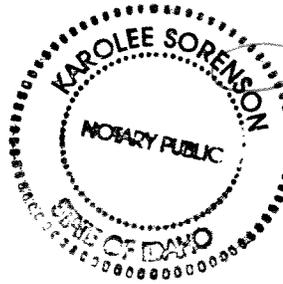
5. The Site Plan copied and attached hereto as EXHIBIT A was prepared for Rex TV and Appliances, Inc., in response to the requirement of the City of Twin Falls for the PUD.
6. In 1998 a PUD Agreement with the City of Twin Falls was executed by Rex TV and Appliances, Inc., and by Mr. and Mrs. Ihlers. A true and correct copy of the PUD Agreement is copied and attached hereto as **EXHIBIT B**. The legal description in the PUD Agreement for the parcel of .20 acres describes the northeast corner of the Site Plan then owned by Mr. and Mrs. Ihlers.
7. The twenty foot (20') parking easement running north and south, and lying immediately west of the Ihlers .20 acre parcel, as shown on the Site Plan, was intended to benefit the .20 acre parcel owned by Mr. and Mrs. Ihlers. The City of Twin Falls required additional parking spaces for the property owned by Mr. and Mrs. Ihlers and the parking easement was included on the Site Plan in order to provide the necessary parking. The parking easement was depicted on the preliminary and final plats for the same reason. The twenty foot (20') parking easement was not intended to benefit Lot 1 of the Rex Subdivision.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 7<sup>th</sup> day of September, 2011.

  
\_\_\_\_\_  
MARTIN G. GERGEN

SUBSCRIBED AND SWORN to before me this 7<sup>th</sup> day of September, 2011.



Karolee Sorenson  
NOTARY PUBLIC  
Residing at: Twin Falls, ID  
My commission expires: 6/21/2016

PUD-212

Twin Falls County, Idaho  
Recorded for:  
CITY OF TWIN FALLS  
11:31am Sep. 22, 1998  
1998-017149  
No. of Pages: 11 Fee: \$33.00  
ROBERT S. FORT  
Ex-Officio Recorder  
Deputy: SL

KELLY & COHEN APPLIANCES, INC.  
and  
WILLARD D. IHLER and DOROTHY M. IHLER

PLANNED UNIT DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into this <sup>14</sup> day of July, 1998, by and between the CITY OF TWIN FALLS, a municipal corporation, State of Idaho (hereinafter call "City"), and KELLY & COHEN APPLIANCES, INC., an Ohio corporation, doing business as Rex and Willard D. Ihler and Dorothy M. Ihler, husband and wife (hereinafter called "Developer") whose addresses are 2875 Needmore Road, Dayton, Ohio 45414 and 1434 Pole Line Road, Twin Falls, ID 83301.

RECITALS

WHEREAS, Kelly & Cohen Appliances, Inc., an Ohio corporation, is the equitable title holder to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A", attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 1.77 acres (hereinafter called "Property"); and

WHEREAS, Willard D. Ihler and Dorothy M. Ihler, husband and wife, are the equitable title holders to certain tracts of land in the City of Twin Falls, and State of Idaho, more particularly described in Exhibit "A1", attached hereto, which land is located west of Locust Street North, east of Elm Street North, south of East Pole Line Road and north of Cheney Drive, consisting of approximately 0.20 acres (hereinafter called "Property")

WHEREAS, Developer intends to develop the Property; and

WHEREAS, Developer had made request of the City of Twin Falls to develop the property as a C-1 Commercial Highway District (hereinafter called "Project") and has submitted to the City a development plan thereof (attached as Exhibit "B") which has been approved for development as a "C-1 PUD" by the City Council of the City; and

WHEREAS, City, by and through its City Council, has agreed to the development of said land within the City of Twin Falls, Idaho, subject to certain terms, conditions and understandings, which terms, conditions and understandings are the subject of this agreement.

COVENANTS

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Developer and City agree as follows:

1. NATURE OF THE AGREEMENT. This agreement shall become part of the "C-1 PUD" zone with respect to the Property upon its full execution and recording. Developer and their assigns or successors in interest, as well as City and its assigns or successors (if any), shall be bound by the terms and conditions contained herein.

2. NATURE OF THE DEVELOPMENT. It is agreed by the parties hereto that certain language and requirements pertaining to the "C-1 PUD" zone shall be interpreted as follows:

A. LOT AREA. The total area of the lot is 85,518 square feet. The lot will be developed in three phases and has two property owners. The REX property consists of 77,018 square feet and the IHLER property consists of 8,500 square feet. The REX property will be developed in two phases. First the west portion of the lot will be developed. The east portion of the REX lot will be developed in the future. The IHLER lot will be developed in the future.

B. USES. The use language of the underlying "C-1" zone shall apply with regard to permitted uses, special uses, and prohibited uses on the Property or any portion thereof, as shown on the Development Plan.

3. WATER, STREET, SEWER AND DRAINAGE IMPROVEMENTS. Developer shall be responsible for the design and construction of water, street, sewer and drainage systems on the Property (hereinafter called "Improvements") as described herein in accordance with City standards.

A. IMPROVEMENT PLANS. Developer shall, as to each phase of its development, file or cause to be filed with the City a complete set of plans for that development phase, showing Public Improvements such as sewer, water, curb and gutter, contemplated within that phase of the development (hereinafter call "Improvement Plans"). The Improvement Plans and Improvements shown thereon shall meet with the approval of the City, which approval shall be given if such plans conform with published City requirements. Only those improvements subject to City standards will need to be submitted.

B. IMPROVEMENT DESIGN AND CONSTRUCTION. Developer shall cause to be designed, constructed and installed, in accordance with the approved Improvement Plans and at its expense, Improvements shown on the Improvement Plans. Notwithstanding the foregoing, nothing in this agreement shall prohibit City participation in the cost or financing of improvements on the Property if mutually agreed to by the parties hereto.

The lot will be connected to City of Twin Falls water and sewer system.

C. PHASED CONSTRUCTION. The development of the Project, including installation of required Improvements, may be completed in phases. Any future phase of the development will require the appropriate changes to the Development Plan and P.U.D. Agreement and will need to be resubmitted to the city. Developer shall provide the City with written notification of when and of what phase, or phases, of said Improvements it intends to complete at the time; and agrees to make such modifications and/or construct any temporary facilities necessitated by such phased construction work as shall be required and approved by the City, which approval shall not be unreasonably withheld.

D. CONSTRUCTION SUPERVISION. Developer shall use a qualified construction engineer or supervisor to supervise the construction inspection and testing of the work as necessary to ensure that all such Improvements are constructed in accordance with the approved Improvement Plans.

E. NONCOMPLIANCE. In the event any of the requirements with regard to the installation of said Improvements are not complied with, the City shall give written notice to Developer of said noncompliance. Developer shall cure a said noncompliance within thirty days of this receipt of notice (or, in the case of a noncompliance that will take in excess of thirty (30) days to cure, Developer shall commence to cure within thirty days of receipt of notice and diligently pursue the same to completion). In the event Developer fails to cure said noncompliance in the manner set forth hereinabove, the City shall have the right to withhold the issuance of any future building permits, and certificates of occupancy within that phase of such "C-1 PUD" until such time as requirements specified in the Section 3 have been complied with; PROVIDED, HOWEVER, Developer shall have the right to appear before the City Council at any regular meeting after any building permits and certificates of occupancy should be issued. The City Council shall then in good faith and in an objective manner decide whether said building permits and certificates of occupancy should be issued, and its decision shall be final, except that the rights of the parties are preserved at law and equity.

F. FEES. Developer shall pay, or cause to be paid, to City applicable fees, if any, with regard to the installation of Improvements pursuant to the Improvement Plans.

G. DEDICATION OF IMPROVEMENTS. The city hereby agrees to accept maintenance responsibility for the public improvements upon their completion to City standards.

H. RESPONSIBILITY. Kelly & Cohen Appliances, Inc. shall have no responsibility for the development of, or costs associated with such development of the IHLER property. Willard D. Ihler and Dorothy M. Ihler

shall have no responsibility for the development of, or costs associated with such development of the REX property.

4. PLATS. No plat will be submitted for this lot split. However, if the REX lot is split in the future a subdivision will be required.

5. INDIVIDUAL PARCEL DEVELOPMENT CRITERIA. The property or any portion thereof shall be developed in accordance with criteria set forth in this Section 5.

A. APPROVAL AND CONSTRUCTION. All public improvements shall be constructed in accordance with engineered drawings and specifications, describing in reasonable detail the work to be performed, which drawings and specifications shall first be approved by City and meet City standards, which approval shall not be unreasonably withheld.

B. BUILDING STANDARDS. Buildings and Public Improvements shall comply with City building and fire codes, and other applicable City ordinances.

C. LANDSCAPING. The landscaping shall be as per current City zoning ordinances and will have a minimum 15 foot landscape buffer along Locust Street North and a minimum 30 foot landscape buffer along Pole Line Road. Within the 30 foot landscape buffer along Pole Line Road, 50 percent of the lineal footage of landscaping shall have berms with a ridge elevation of at least 18 inches in height with at least 50 percent of the berming having a minimum ridge elevation of 30 inches in height. Each separate section of the landscaping strip shall contain trees or shrubs. For all landscaping within the development, the required minimum size landscaped area shall, as a minimum, have the following plant life: one tree per 500 square feet of landscaped area; one bush per 100 square feet of landscaped area.

D. APPROACHES. The Developer will install an arterial approach on East Pole Line Road and an arterial approach on Locust Street North. The total approaches will be limited to one on East Pole Line Road and one on Locust Street North after any development is completed for the entire PUD.

E. INGRESS / EGRESS. The PUD will abandon all ingress/egress except for one approach on East Pole Line Road and one approach on Locust Street North, with cross use ingress/egress easements between Kelly & Cohen Appliances, Inc. and Willard D. Ihler and Dorothy M. Ihler.

F. STORM WATER / FLOOD PLAIN. The Developer will provide an acceptable stormwater management/flood plain mitigation plan.

6. TIME LIMITATION. "C-1 PUD" zone designation on the property is expressly conditioned upon submission to the City Council of a final development plan of the first phase within one (1) year from the date hereof.

7. PARKING. No on street parking will be allowed, adequate parking spaces meeting city code will be located on all phases of the property and will be properly signed and marked. Each phase of development will provide the number of parking stalls required for that phase.

8. GENERAL PROVISIONS.

A. COOPERATION. The parties hereto agree to cooperate each with the other. Developer shall submit to the City all plans, specifications and working drawings required by the City.

B. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the parties concerning the property and improvements described herein, and no amendment or modification to this agreement shall be valid or effective unless reduced to writing and signed by the parties. It is understood that a standard City Development Agreement will be required for each phase of development.

C. APPLICABLE LAW. This agreement shall be construed in accordance with the laws of the State of Idaho.

D. NOTICES. If notices from one party to the other are desired or required hereunder, such notices shall be delivered or mailed to the party to receive such at this address last known to the sender of such notice. Notices shall be deemed received on the date of hand delivery or upon seventy-two (72) hours following deposit in the United States mail, if properly addressed, stamped and sent with "return receipt requested". On the date of this agreement, the addresses of the parties are as follows:

DEVELOPER: Richard E. Santia, Vice President of Corporate  
Development  
Kelly & Cohen Appliances, Inc.  
2875 Needmore Road  
Dayton, Ohio 45414

With a copy to: Edward M. Kress  
Chernesky, Heyman & Kress P.L.L.  
1100 Courthouse Plaza, S.W.  
Dayton, Ohio 45402

wife

DEVELOPER: Willard D. Ihler and Dorothy M. Ihler, a husband and  
 1434 Pole Lone Road East  
 Twin Falls, Idaho 83301

CITY: City of Twin Falls  
 P.O. Box 1907  
 321 Second Avenue East  
 Twin Falls, ID 83303-1907

E. SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the successors, assigns and legal representatives of the parties hereto.

F. SEVERABILITY. In the event any portion of this agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be deemed severed from this agreement, and the remaining portions shall not be affected thereby.

G. SIGNATORIES. Each of the persons executing this agreement hereby represents and warrants that he or she is duly authorized and empowered to so act on behalf of the entity for which he or she is signing and that this agreement is binding on, and enforceable against such entities.

H. EFFECTIVE DATE. This "PUD" Agreement shall become valid and binding only upon its approval by City, through its City Council, and upon its execution by the Mayor and Developer.

I. ATTORNEYS' FEES. In the event that either party should be required to retain an attorney because of the default or breach of the other or to pursue any other remedy provided by law, that party which prevails in any litigation shall be entitled to a reasonable attorney's fee.

J. CONSTRUCTION. Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that both parties have participated in the preparation hereof.

K. ATTACHMENTS. All attachments to this Agreement and recitals are incorporated herein and made a part hereof as if set forth in full.

L. CAPTIONS. The captions, section and paragraph numbers appearing in this agreement are inserted only as a matter of convenience and shall in no way affect interpretation of this agreement.

IN WITNESS WHEREOF, the City has affixed its seal and caused these presents to be executed by its Mayor on the date above written.

CITY OF TWIN FALLS

By: Gale Kleinkopf  
Mayor

KELLY & COHEN APPLIANCES, INC.

By: Edward M. Kress  
Edward M. Kress, Secretary

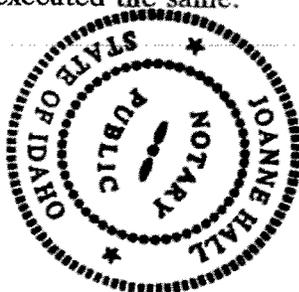
OWNER

By: Willard D. Ihler  
Willard D. Ihler, Owner

By: Dorothy M. Ihler  
Dorothy M. Ihler, Owner

STATE OF IDAHO )  
 )ss.  
County of Twin Falls )

On this 16<sup>th</sup> day of July, 1998, before me Joanne Hall a notary public in and for said State, personally appeared MAYOR GALE KLEINKOPF, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.



Joanne Hall  
Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 10-26-2000

STATE OF OHIO )  
 )ss.  
County of MONTGOMERY )

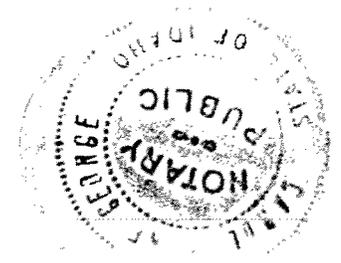
On this 14th day of July 1998, before me Karen R Adams a notary public in and for said State, personally appeared Edward M. Kress, Secretary, of KELLY & COHEN APPLIANCE, INC., known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public Karen R Adams  
Residing at Middletown, Ohio  
Commission expires \_\_\_\_\_  
KAREN R. ADAMS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 O. R. C.

STATE OF IDAHO )  
 )ss.  
County of Twin Falls )

On this 15th day of July, 1998, before me Carol Jean George a notary public in and for said State, personally appeared Willard D. Ihler, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

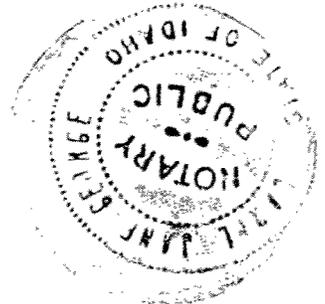
Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-99



STATE OF IDAHO )  
 )ss.  
County of Twin Falls )

On this 15<sup>th</sup> day of July, 1998, before me Carol Jane Heger a notary public in and for said State, personally appeared Dorothy M. Ihler, known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that executed the same.

Notary Public  
Residing at Twin Falls, Idaho  
Commission expires 2-24-98



PROPERTY DESCRIPTION  
KELLY & COHEN APPLIANCES, INC.

A parcel of land being a part of the East 300.00 feet of Lot 9 of the EOFF Tract, Twin Falls County, Idaho, as shown on the Official Plat of said tract as recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 and located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South  $89^{\circ}43'48''$  East a distance of 1321.02 feet along the northerly boundary of said NE1/4NE1/4 to the northeast corner thereof;

THENCE South  $0^{\circ}56'46''$  West a distance of 25.00 feet to the northeast corner of said Lot 9 of the EOFF Tract;

THENCE South  $0^{\circ}56'46''$  West a distance of 118.00 feet along the easterly boundary of said Lot 9 to the TRUE POINT OF BEGINNING;

THENCE South  $0^{\circ}56'46''$  West a distance of 200.06 feet to the southeast corner of said Lot 9;

THENCE North  $89^{\circ}43'47''$  West a distance of 300.00 feet along the southerly boundary of said Lot 9;

THENCE North  $0^{\circ}56'46''$  East a distance of 285.06 feet;

THENCE South  $89^{\circ}43'48''$  East a distance of 200.00 feet parallel with the northerly boundary of said Lot 9;

THENCE South  $0^{\circ}56'46''$  West a distance of 85.00 feet parallel with the easterly boundary of said Lot 9;

THENCE South  $89^{\circ}43'48''$  East a distance of 100.00 feet parallel with the northerly boundary of said Lot 9 to the TRUE POINT OF BEGINNING, containing 1.77 acres more or less.



Engineers Surveyors Planners

June 15, 1998

Property Description

For

Clark, Geer & Latham Associates

0.20 Acre Parcel

A parcel of land located in the East 100 feet of Lot 9, of the EOFF Tract, Twin Falls County, Idaho as shown on the Official Plat of said tract and recorded in the office of the Recorder of said County in Plat Book No. 1, Page 29 located in the Northwest Quarter of the Northwest Quarter of Section 3, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, more particularly described as follows:

Beginning at the northwest corner of said Section 3;

THENCE South 89°43'48" East a distance of 1321.03 feet along the northerly boundary of said NW1/4NW1/4 to the northeast corner of said NW1/4NW1/4 and the northeast corner of said EOFF Tract;

THENCE South 0°56'46" West a distance of 58.00 feet long the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract to the TRUE POINT OF BEGINNING;

THENCE South 0°56'46" West a distance of 85.00 feet along the easterly boundary of said NW1/4NW1/4 and the easterly boundary of said EOFF Tract;

THENCE North 89°43'48" West a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4;

THENCE North 0°56'46" East a distance of 85.00 feet parallel with the easterly boundary of said NW1/4NW1/4;

THENCE South 89°43'48" East a distance of 100.00 feet parallel with the northerly boundary of said NW1/4NW1/4 to the TRUE POINT OF BEGINNING, containing 0.20 acres more or less.

*Dennis Carroll Zimmerman*  
865  
15-98  
PROFESSIONAL LAND SURVEYOR  
REGISTERED  
STATE OF IDAHO  
DENNIS CARROLL ZIMMERMAN





DATE: **MONDAY, SEPTEMBER 12, 2011**  
To: Honorable Mayor and City Council  
From: Mitch Humble, Community Development Department

## AGENDA ITEM I-

**Request:** **Request for approval of a 2nd and final extension of the final plat of Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East. c/o EHM Engineers/Tim Vawser on behalf of Kevin Bradshaw.**

### Regulatory Impact:

Approval of this request will allow the applicant to record the final plat without going back through the process. If approved the final plat would expire on September 08, 2013. The plat shall be filed with the County Recorded by September 08, 2013 otherwise all previous approvals shall be come null and void.

### History/Analysis:

This property is located in the Addison T. Smith tract but was never recorded in a subdivision.

Mr. Bradshaw received a demolition permit to remove an existing single family residence on the property on April 20, 2007. The home has since been removed.

The Planning and Zoning Commission denied a Special Use Permit request to construct a four-plex on this property at the March 11, 2008 public meeting due to concerns with inadequate parking on the site and onsite storage issues. Mr. Bradshaw resubmitted his application by increasing the number of parking spaces and removing the storage building previously proposed on site.

On **April 08, 2008** a SUP request for a four-plex at the site was unanimously approved as presented by the Planning & Zoning Commission by a vote of 7-0, subject to the following conditions:

1. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable city code requirements and standards.
2. No personal storage allowed on-site, including but not limited to campers, boats, travel trailers, motorcycles, etc.

City Code 10-13-2.2(l) states ....“Special uses which have not been established within one year of the date of issuance of the special use permit, may be reviewed by the Commission to determine if the facts and circumstances have changed; the Commission may call for a new special use permit” or re-establish the previously approved special use permit.

The special use permit has since expired. Prior to development of 4-plexes at the site the applicant may request the Commission to consider re-establishing the expired sup.

On **June 9, 2009** the preliminary plat for the Dry Creek Subdivision was unanimously approved as presented by the Planning & Zoning Commission by a vote of 7-0 subject to the following conditions:

1. Subject to final technical review by the Engineering, Fire and Zoning Department to ensure compliance with all applicable City Code requirements and standards.

2. Subject to the legend stating the intended residential use/density, ie; single family, duplex, tri-plex or four-plex.
3. Subject to a parks fee in-lieu of land dedication recommended by the Parks & Recreation Commission and approved by the City Council.

On **September 08, 2009** the final plat for the Dry Creek Subdivision was unanimously approved as presented by the City Council by a vote of 5-0 subject to the following conditions:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

**Prior to the adoption of Ord #3006 on July 25, 2011, City Code 10-12-2.4(l) stated:**

"(l) Approval Period: Final plat shall be filed with the County Recorder within one year after written approval by the Council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the Council.

Being aware the plat would not be filed with the County Recorder's office by the end of the 1 year approval time the developer/owner requested a 1-year extension, and

On **September 07, 2010** the City Council unanimously approved a 1-year extension (good until September 08, 2011) of the final plat of Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East with the following conditions:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

**Analysis**

Attached is a request from Tim Vawser with EHM Engineers, Inc., on behalf of Kevin Bradshaw, owner/developer, asking for a 2nd extension of the final plat of the Dry Creek Subdivision. He stated in his previous letter that the developer's intent was to install public improvements prior to recording the plat. He further states the current market has made it necessary to delay construction until an improvement is seen in lot sales.

On July 25, 2011 the City Council approved a request to amend Title 10; Chapter 12; Sections 2.3(l) and 2.4(l) and adopted Ordinance #3006. The amendment modified sections 10-12-2.3(l) and 10-12-2.4(l): "Approval Period" for Preliminary and Final Plats of the Twin Falls City Code; Title 10; Zoning & Subdivision Regulations by extending the length of the initial approval period from one year to two years and limiting the length of time allowed for an extension of those approvals from an indefinite time period to limiting the number of extension to one time only for a maximum period of two years. After the maximum approval time of four (4) years, the developer would be required to record the final plat and meet the city's requirements for bonding, financial guarantee or placing the final plat in a trust agreement. Failure to do so will void the approval and the platting process will be required to start over.

**If the request for a 2nd extension is granted approval of the final plat of the Dry Creek Subdivision will expire on September 08, 2013.**

**Conclusion:**

Staff recommends approval of a 2nd and final 2-year extension of the filing requirement on the final plat of Dry Creek Subdivision subject to the two (2) conditions placed on the approval of extension #1, granted September 07, 2010, which are as follows:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

**Prior to September 08, 2013 the developer shall record the final plat and meet the city's requirements for bonding, financial guarantee or placing the final plat in a trust agreement-as approved by the City Engineer and City Council. Failure to do so will void the approval and the platting process will be required to start over.**

**Attachments:**

1. Letter(s) of Request for Extension
2. Area Zoning Map
3. Aerial of the Project Site
4. Approved Preliminary Plat
5. Approved Final Plat
6. Portion of the June 09, 2009 P&Z minutes
7. Portion of the Sept 08, 2009 CC minutes
8. Portion of the Sept 07, 2010 CC minutes
9. Letter from JUB-water model run
10. Ord #3006

Date: August 5, 2011

City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Attn: Rene'e Carraway

REF: Dry Creek Subdivision  
Final Plat Extension

Dear Rene'e,

Please let this letter serve as the official request on behalf of Kevin Bradshaw, the owner of the development, for an extension of the approval of the Final Plat of Dry Creek Subdivision. Included is an 8.5 x 11 of the final plat for your use.

Please notify me when this item will be scheduled on the Council's agenda and please feel free to call me at 734-4888 if you have any questions.

Sincerely,

*OK to schedule for extension*  
*[Signature]*



Tim Vawser  
EHM Engineers Inc.

Cc: Kevin Bradshaw

RECEIVED  
AUG 05 2011  
CITY OF TWIN FALLS  
PLANNING & ZONING



**CITY OF TWIN FALLS**  
**Community Development Department**

324 Hansen Street E  
P.O. Box 1907  
Twin Falls, ID 83303-1907

Phone: 208-735-7267  
Fax: 208-736-2641  
www.tfid.org

September 14, 2010

EHM Engineering, Inc  
c/o Tim Vawser  
621 N College Rd, Ste 100  
Twin Falls, ID 83301

Re: Zoning Request

Dear Applicant;

At its September 7, 2010 regularly scheduled public meeting the Twin Falls City Council approved a request for a one year final plat extension for the final plat for the Dry Creek Subdivision .44 (+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East. The 1<sup>st</sup> extension request for the final plat Dry Creek Subdivision was approved through September 8, 2011 subject to the following conditions:

1. Subject to final technical review by the Engineering, Fire & Zoning Department to ensure compliance with all applicable City Code requirements and standards.
2. Subject to the legend stating the residential use/density of single family.

City Code 10-12-2.4(l) states..."The final plat shall be filed with the county recorder within one year after written approval by the City Council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the sub-divider and granted by the Council."

Enclosed is a copy of the Findings of Fact, Conclusions of Law and Decisions. This statement establishes the legal basis for the Twin Falls City Council decision to approve your request. If you have any questions about the Findings, please do not hesitate to contact the office of Planning & Zoning at 208-735-7267.

Sincerely,

Zoning & Development Manager

RVC/lj  
Attachment(s)

August 9, 2010

City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Attn.: Rene'e Carraway

Re.: Dry Creek Subdivision

Dear Rene'e,

Please let this letter serve as the official request from Kevin Bradshaw, the owner of the development, for a one-year extension of Council's approval of Dry Creek Subdivision. The plat was originally approved by Council on September 8<sup>th</sup>, 2009. Mr. Bradshaw's intent is to install the public improvements prior to recording the plat. The current conditions and the inability to obtain competitive bids have forced a delay in the development of the property.

Please schedule this item on the Council's agenda for approval prior to the expiration date. Included for your use is an 8.5 x 11 copy of the final plat. Please feel free to call me at 734-4888 if you have any questions.

Sincerely,



Tim Vawser  
EHM Engineers, Inc.

**RECEIVED**  
**AUG 11 9 2010**  
CITY OF TWIN FALLS  
PLANNING & ZONING



**EHM** Engineers, Inc.  
ENGINEERS / SURVEYORS / PLANNERS

IN THE FIELDS OF  
PLANNING  
SURVEYING  
HIGHWAYS  
WATER  
SEWAGE  
STRUCTURAL  
SUBDIVISIONS  
BRIDGES  
ENVIRONMENTAL  
QUALITY CONTROL  
CONSTRUCTION MGMT

RECEIVED  
FEB 17 2009

February 17, 2009

Y: Mitch Humble  
City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Re.: Dry Creek Flat Subdivision  
Preliminary Plat application

Dear Sir,

Attached is the application package and fees for the above referenced subdivision. The property is located north of Shoup Avenue and west of Sunrise Boulevard N. This development will contain 2 lots and consists of 0.44 acres. Both lots will be residential lots in compliance with the R-4 zone. The owner is Kevin Bradshaw and his address is 1193 Eastridge Circle, Twin Falls, Idaho, 83301.

Please place this on the Planning and Zoning Commission's earliest available agenda for consideration of approval.

If you have any questions please feel free to call me at 734-4888.

Sincerely,



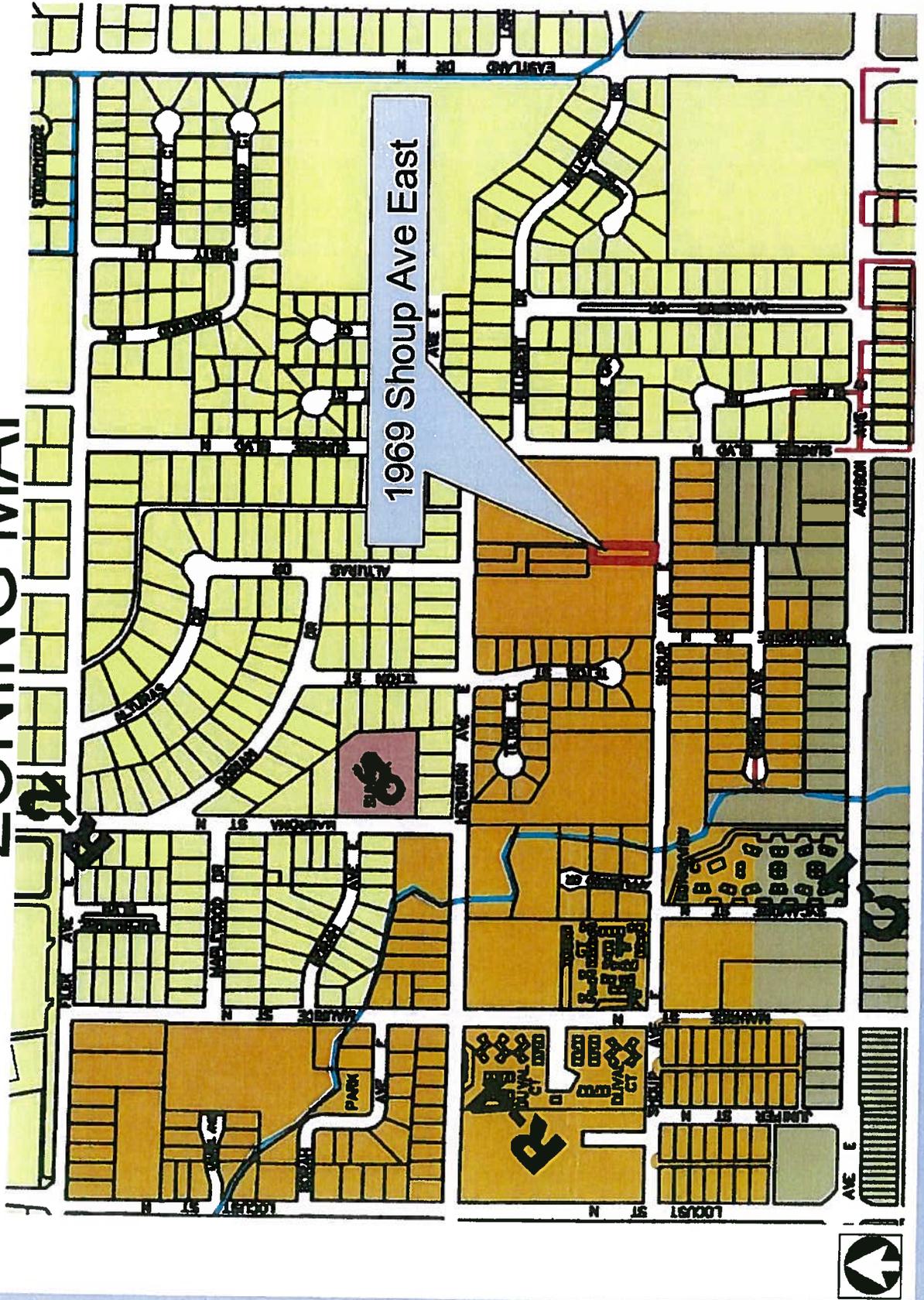
Tim Vawser  
EHM Engineers, Inc.

Attachments: application packages

621 North College Rd., Suite 100 • Twin Falls, Idaho 83301 • (208) 734-4888 • Fax (208) 734-6049  
3501 W Elder St., Suite 100 • Boise, Idaho 83705 • (208) 386-9170 • Fax (208) 386-9076

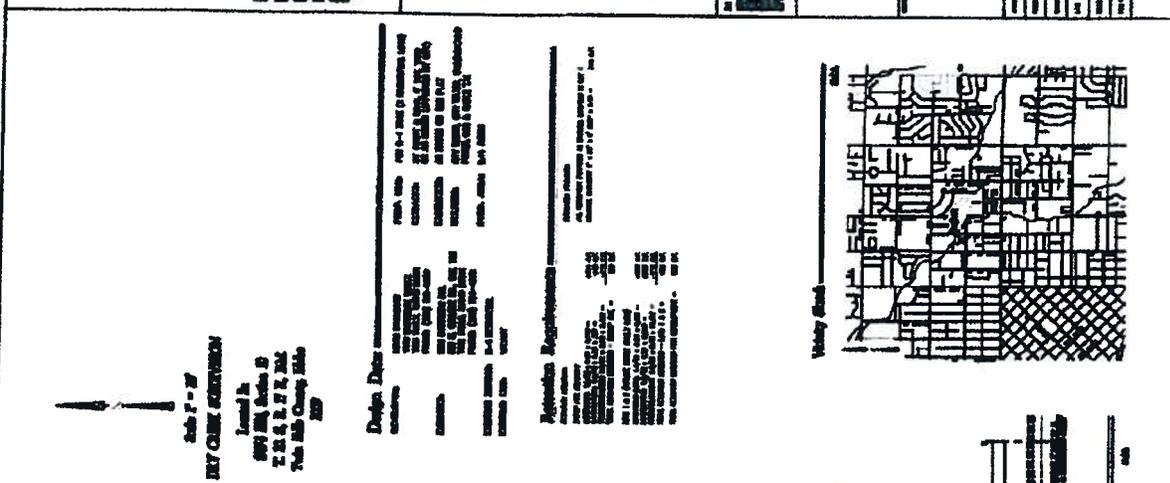


# ZONING MAP



# AERIAL VIEW

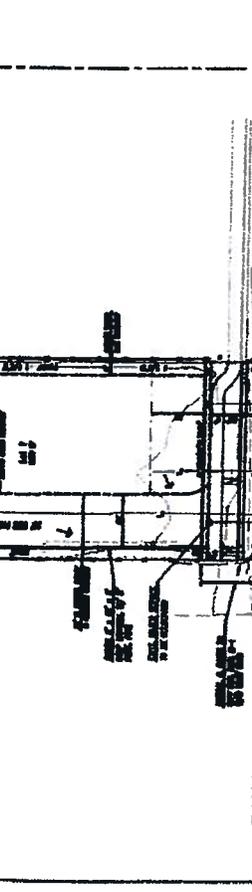




**Sub P - 27**  
**DRY CREEK EXTENSION**  
 Parcel 1  
 6877 1/2 Street S  
 T. 22 S. R. 7 E. S. 22  
 Public Agency 144  
 2010

**Design Data**  
 DESIGN SPEED: 35 MPH  
 DESIGN LIFE: 20 YEARS  
 DESIGN FLOW: 100 YRS FLOOD FLOW  
 DESIGN CHANNEL: 10' WIDE  
 DESIGN CHANNEL: 10' DEEP  
 DESIGN CHANNEL: 10' HIGH  
 DESIGN CHANNEL: 10' WIDE  
 DESIGN CHANNEL: 10' DEEP  
 DESIGN CHANNEL: 10' HIGH

**Proposed Right-of-Way**  
 PROPOSED RIGHT-OF-WAY: 10' WIDE  
 PROPOSED RIGHT-OF-WAY: 10' DEEP  
 PROPOSED RIGHT-OF-WAY: 10' HIGH  
 PROPOSED RIGHT-OF-WAY: 10' WIDE  
 PROPOSED RIGHT-OF-WAY: 10' DEEP  
 PROPOSED RIGHT-OF-WAY: 10' HIGH



NO.	DESCRIPTION	DATE
1	DESIGN	10/10/10
2	REVISION	10/10/10
3	REVISION	10/10/10
4	REVISION	10/10/10
5	REVISION	10/10/10
6	REVISION	10/10/10
7	REVISION	10/10/10
8	REVISION	10/10/10
9	REVISION	10/10/10
10	REVISION	10/10/10

**Notes**  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
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 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**Engineers, Inc.**  
 ENGINEERS, SURVEYORS/PLANNERS  
 1000 10th Street SW  
 Grand Rapids, MI 49503  
 (616) 941-1000  
 www.engineersinc.com





**MINUTES**  
**Twin Falls City Planning & Zoning Commission**  
**June 9, 2009-6:00 PM**  
**City Council Chambers**  
**305 3<sup>rd</sup> Avenue East Twin Falls, ID 83301**

**PLANNING & ZONING COMMISSION MEMBERS**

**CITY LIMITS:**

Wayne Bohrn    Kevin Cope    Bonnie Lezamiz    Gerardo Munoz    Jim Schouten    Cyrus Warren    Carl Younkin  
Vice-Chairman    Chairman

**AREA OF IMPACT:**

Lee DeVore    R. Erick Mikesell

**ATTENDANCE**

**PLANNING & ZONING MEMBERS**

**PRESENT:**

Bohrn  
Cope  
Lezamiz  
Munoz  
Schouten  
Younkin

**ABSENT:**

Warren

**AREA OF IMPACT MEMBERS**

**PRESENT:**

Mikesell

**ABSENT:**

DeVore

**CITY COUNCIL MEMBERS PRESENT:            NONE**

**CITY STAFF PRESENT:            Glaesemann, Jones, Reeder, Viteck, Wonderlich**

**AGENDA ITEMS FOR CONSIDERATION AND PUBLIC HEARING**

**III.    ITEMS OF CONSIDERATION:**

1. Consideration of the Preliminary Plat for the Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East c/o EHM Engineering, Inc.

**IV.    PUBLIC HEARINGS:**

1. Request for a Special Use Permit to operate a religious facility on property located at 455 Addison Avenue c/o Islamic Cultural Community Center (app. 2313)
2. Request for the Commission's recommendation on a Zoning District Change And Zoning Map Amendment from R-2 to NCO PUD for 4.71 (+/-) acres to allow a mixed use planned development consisting of a combination of neighborhood commercial uses and a convenience store/gas station on property located at the northwest corner of Eastland Drive North and Addison Avenue East, c/o Maverik Inc. (Brad McDougal). (app. 2314)

**WITHDRAWN**

**III.    ITEMS OF CONSIDERATION:**

1. Consideration of the Preliminary Plat for the Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East c/o EHM Engineering, Inc.

**APPLICANT PRESENTATION:**

Tim Vawser, EHM Engineering, Inc., representing the applicant stated this is a small two lot subdivision proposed on Shoup Avenue just west of Sunrise Boulevard. It is a little large for one residential lot and so the applicant is proposing to split the lot into two pieces. It is just north of Smith's and west of Sunrise Boulevard. It is .44 (+/-) acres the two lot subdivision is in conformance with the R-4 zoning. Last year sometime the applicant has a special use permit approved for single family residence and a four-plex and has since then reconsidered and decided to build two single family residences on the property. He requests that the Commission approve this preliminary plat.

**STAFF PRESENTATION:**

Planner I Reeder reviewed the aerial maps of the property location on the overhead. She stated the Preliminary Plat for the Dry Creek Subdivision includes 0.44 (+/-) acres and is zoned R-4. The request is to plat 2 residential lots as part of a residential subdivision. The Planning and Zoning Commission saw Special Use Permit requests in March and April of 2008 for a four-plex on this property and a Special Use Permit was approved. However as was indicated, Mr. Bradshaw is not intending for development of a four-plex on this property anymore. The plat request is to provide for two single-family lots. The R-4 zone allows a minimum 4,000 square foot single family lot. Lot 1 will be 7,875 sq ft. Lot 2 will be an 8,673 sq ft. The plat meets or exceeds the minimum lot size requirements for development in the zone.

It is noted on the plat that all utilities will be located underground. The storm water retention on the site is calculated to meet the need for both lots when developed. Water retention is provided for in an underground seepage bed located in the proposed driveway. The subdivision is adjacent to Shoup Avenue East on the southern boundary. The Engineering Department is requiring construction of Shoup Avenue East to the center of the roadway. The applicant is dedicating a total of 32' of road right-of-way. The City Engineering Department's review of the preliminary plat disclosed that the property's southern most portion is located within the flood plain. The developer will be required to comply with City Code 10-12-5-8, Subdivision Within A Flood Plain. There is also a requirement for a parkland dedication as part of residential plat. Applicants may request to pay a contribution in-lieu of parkland dedication. The applicant must apply and be approved for the parks in-lieu before development of this project is complete. The Parks and Recreation Commission reviewed an in-lieu request for this plat earlier today and it was unanimously recommended to the City Council for approval. Approval of the request by the City Council is recommended as a condition of approval for the preliminary plat. The plat is in conformance with the new Comprehensive Plan land use map which designates this area as appropriate for Medium Density Residential development.

Planner I Reeder stated upon conclusion, should the Commission approve the preliminary plat of the Dry Creek Subdivision, staff recommends approval be subject to the following conditions:

1. Subject to final technical review by the Engineering, Fire and Zoning Department to ensure compliance with all applicable City Code requirements and standards.
2. Subject to the legend stating the intended residential use/density, ie; single family, duplex, tri-plex or four-plex
3. Subject to a parks fee in-lieu of land dedication recommended by the Parks & Recreation Commission and approved by the City Council.

**PUBLIC COMMENT: OPENED AND CLOSED WITHOUT PUBLIC COMMENT**

**DELIBERATIONS FOLLOWED: WITHOUT CONCERNS**

**MOTION:**

Commissioner Bohrn made a motion to approve the request as presented with staff recommendations. Commissioner Cope seconded the motion. All members present voted in favor of the motion.

**APPROVED AS PRESENTED SUBJECT TO THE FOLLOWING CONDITIONS**

1. Subject to final technical review by the Engineering, Fire and Zoning Department to ensure compliance with all applicable City Code requirements and standards.
2. Subject to the legend stating the intended residential use/density, ie; single family, duplex, tri-plex or four-plex
3. Subject to a parks fee in-lieu of land dedication recommended by the Parks & Recreation Commission and approved by the City Council.

**COUNCIL MEMBERS:**

LANCE	TRIP	DON	LEE	DAVID E.	WILLIAM A.	GREG
CLOW	CRAIG	HALL	HEIDER	JOHNSON	KEZELE	LANTING

**Mayor****Vice Mayor****MINUTES**

Meeting of the Twin Falls City Council  
 September 8, 2009 (Tuesday)  
 City Council Chambers  
 305 3<sup>rd</sup> Avenue East Twin Falls, Idaho

PLEDGE OF ALLEGIANCE TO THE FLAG  
 CONFIRMATION OF QUORUM  
 INTRODUCTION OF STAFF  
 CALL MEETING TO ORDER: 5:00 P.M.  
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA.  
 PROCLAMATIONS: None.

**AGENDA ITEMS**

	Purpose	By:
<b>I. CONSENT CALENDAR:</b>		
1. Consideration of accounts payable for August 25 – September 8, 2009.	Action	Staff Report
2. Consideration of the August 24, 2009, Minutes.	Action	L. Sanchez
3. Consideration to approve the Annual Oktoberfest 2009, to be held Friday and Saturday, October 2 and 3, 2009.	Action	Dennis Pullin
4. Consideration of a request to approve the "Bed Races" Fundraiser for the Multiple Sclerosis Society. The event will be held on Saturday, September 26, 2009, from 11:00 A.M.	Action	Dennis Pullin
5. Consideration of a request from Cindy Purves of the Lynwood Merchants Association to approve a Battle of the Bands event in the Lynwood parking lot on Saturday, September 19, 2009.	Action	Dan McAtee
<b>II. ITEMS FOR CONSIDERATION:</b>		
1. Presentation of a Landscape Award to Canyon Crest & Dining located at 330 Canyon Crest Drive.	Presentation	
2. Consideration of a Public Hearing September 21, 2009, to hear comments regarding the increases to the Airport Fee Schedule.	Action	Bill Carberry
3. Adoption of an Appropriation Ordinance for FY 2009-2010. Proposed Ordinance #2976	Action	Tom Courtney
4. Consideration of the Final Plat for the Dry Creek Subdivision, .44 (+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East. c/o EHM Engineers/Tim Vawser.	Action	Mitch Humble
5. Consideration of the Shoshone Heights Planned Unit Development (PUD) Agreement between the City of Twin Falls and Renaissance Project Development, LLC.	Action	Mitch Humble
6. Consideration of a request to finalize the City's energy objectives to be included in the preparation of the Energy Plan.	Action	Mitch Humble
7. Consideration to authorize the Mayor and City Manager to execute the right-of-way agreements for the Falls Avenue West Road Widening Project:	Action	Jackie Fields
a) Gary and Cindy Braun, Parcel 16, 602 Falls Avenue West, with the compensation amount of \$ 14,168.00.		
b) Charles and Alice Armstrong, Parcel 6, 442 Falls Avenue West, with the compensation amount of \$ 6,792.00.		
c) Jose Costa, Parcel 44, 244 Falls Avenue West, with the compensation amount of \$ 5,126.76.		
d) Sherri D' Angelo, Parcel 29, 607 Falls Avenue West, with the compensation amount of \$ 3,449.00.		
e) Wesley and Diana Startin, Parcel 33, 547 Falls Avenue West, with the compensation amount of \$ 1,908.90.		
f) Judith Sinkewicz, Parcel 4, 362 Falls Avenue West, with the compensation amount of \$ 22,144.50.		
g) Rob Baily, Parcel 42, 202 Falls Avenue West, with the compensation amount of \$ 18,652.68.		
8. Public input and/or items from the City Manager and City Council.		

<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>		
<b>IV. <u>PUBLIC HEARINGS:</u></b>	<b>6:00 P.M. –</b>	
1. Appeal of David Hall regarding the Planning & Zoning Commission's decision to revoke Special Use Permit #0800 granted to David Hall on January 28, 2003, to allow the operation of an automobile sales business on property located at 1102 Kimberly Road. (app.2324)	Action	Mitch Humble
2. A public hearing regarding consideration of a property exchange agreement between the City and William Mason and Joe Shelton to secure access to the Auger Falls property.	Action	Mitch Humble
<b>V. <u>ADJOURNMENT:</u></b>		

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

**COUNCIL MEMBERS PRESENT:** Lance W. Clow, Trip Craig, Lee Heider, David Johnson, Gregory Lanting, and Will Kezele via telephone.

**COUNCIL MEMBERS ABSENT:** Don Hall

**STAFF PRESENT:** City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Community Development Director Mitch Humble, Planner 1 Amber Reeder, City Engineer Jackie Fields, Airport Manager Bill Carberry, Assistant Finance Director Lorie Race, Budget Coordinator Darren Huber, Project Coordinator Lee Glaesemann, Staff Sergeant Dan McAtee, Staff Sergeant Dennis Pullin, Deputy City Clerk/Recording Secretary Leila Sanchez.

Mayor Clow called the meeting to order at 5:00 P.M. He invited all present, who wished to, to recite the Pledge of Allegiance to the Flag with him. A quorum was present. Mayor Clow introduced City staff.

**CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:**

Vice Mayor Johnson requested to discuss the Finance Committee during the discussion of Item for Consideration 3. Adoption of Appropriation Ordinance for FY 2009-2010.

**MOTION:**

Vice Mayor Johnson made the motion to discuss the Finance Committee during the discussion of Item for Consideration 3. Adoption of Appropriation Ordinance for FY 2009-2010. The motion was seconded by Councilperson Lanting and roll call vote showed all members voted in favor of the motion. Approved 6 to 0.

**PROCLAMATIONS:** None.

**AGENDA ITEMS**

**II. ITEMS FOR CONSIDERATION:**

6:10 P.M. Councilperson Kezele recused himself from the rest of the meeting.

4. Consideration of the Final Plat for the Dry Creek Subdivision, .44 (+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East. c/o EHM Engineers/Tim Vawser.

Community Development Director Humble reviewed the request.

Should the City Council approve the final plat of Dry Creek Subdivision as presented staff recommends approval be subject to the following conditions:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code requirements and standards.
2. Subject to the legend stating the residential use/density of single family.

Minutes

September 8, 2009

Page 3 of 3

Discussion followed:

Mayor Clow inquired of easements and shared driveway.

Kevin Bradshaw, applicant, 1193 Eastridge Circle, explained the driveway access and easement.

**MOTION:**

Councilperson Lanting made the motion to approve the Final Plat for the Dry Creek Subdivision, .44 (+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East. c/o EHM Engineers/Tim Vawser as presented with the following conditions:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

The motion was seconded by Vice Mayor Johnson and roll call vote showed all members present voted in favor of the motion.  
Approved 5 to 0.



**J-U-B ENGINEERS, Inc.**  
**ENGINEERS • SURVEYORS • PLANNERS**

Regional Office  
115 Northstar Avenue  
Twin Falls, ID 83301

208-733-2414  
Fax: 208-733-9455  
www.jub.com

March 5, 2009

Mr. Lee Glaesemann, P.E.  
City of Twin Falls  
P.O. Box 1907  
Twin Falls, ID 83303-1907

RE: Water Model Run - Dry Creek

Dear Mr. Collins:

The City of Twin Falls Water Model has been updated to include an estimated water usage for the proposed Dry Creek Subdivision as shown on the preliminary plat dated January 2009. The development consists of 2 residential lots connecting into an existing six (6) inch water main on Shoup Avenue E in the High Level Pressure Zone. The plat does not indicate that a pressure irrigation system will be provided.

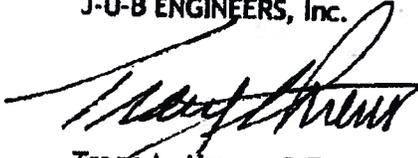
The water model run at maximum day demand indicates that there will not be any significant effect to the current distribution system (provided there is sufficient water supply). The calculated available fire flows at different locations within and around the development are shown in the attached run results labeled "Scenario: Dry Creek". Refer to figure for fire flow locations. The water model hydrant flows were run in conjunction with the current estimated maximum day demand with proposed subdivisions and developments.

The results shown on the enclosure for the available fire flows are calculated on the water main near the intersection of the fire hydrant lead line and the water main. Thus, the results indicate an estimation of what fire flow is available in that area not necessarily what flow is in that particular fire hydrant.

Please feel free to call me if you have any additional questions.

Sincerely,

J-U-B ENGINEERS, Inc.



Tracy A. Ahrens, P.E.

gmh

Attachments

c: Tim Vawser, EHM Engineers, Inc. w/ attachments

**COUNCIL MEMBERS:**

LANCE CLOW	TRIP CRAIG	DON HALL <i>Mayor</i>	LEE HEIDER <i>Vice Mayor</i>	DAVID E. JOHNSON	WILLIAM A. KEZELE	GREG LANTING
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**MINUTES**  
**Meeting of the Twin Falls City Council**  
**September 7, 2010 (Tuesday)**  
**City Council Chambers**  
**305 3<sup>rd</sup> Avenue East Twin Falls, Idaho**

**4:00 P.M.**

The purpose of the meeting is to continue the review of the Preliminary Budget for Fiscal Year 2010-2011.

**CALL MEETING TO ORDER:** 5:00 P.M.  
**PLEDGE OF ALLEGIANCE TO THE FLAG**  
**CONFIRMATION OF QUORUM**  
**INTRODUCTION OF STAFF**  
**CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:**  
**PROCLAMATIONS:** None.

<b>AGENDA ITEMS</b>		<b>Purpose</b>	<b>By:</b>
<b>I. <u>CONSENT CALENDAR:</u></b>			
1. Consideration of accounts payable for August 24 – September 7, 2010. August 30, 2010, total: \$398,509.980.		Action	Staff Report Sharon Bryan
2. Consideration of the August 23, 2010, Minutes.			Leila A. Sanchez Troy Vitek
3. Consideration to approve a Curb & Gutter Improvement Deferral Agreement for Diane Brown, 3361 7 <sup>th</sup> Avenue North.			Dennis Pullin
4. Consideration of a request to approve the annual Perrine Bridge Festival requested by the Perrine Bridge (Non-Profit) Saint Luke's Magic Valley Foundation to be held on Saturday, September 11, 2010.			
<b>II. <u>ITEMS FOR CONSIDERATION:</u></b>			
1. Presentation of funds from the Southern Idaho Land Trust for the re-seeding effort at Auger Falls.		Presentation	Dennis Bowyer
2. Presentation of funds from the Twin Falls Community Foundation for the re-seeding effort at Auger Falls.		Presentation	Dennis Bowyer
3. Request by Elvia Caldera, South Central Health District, to ban all tobacco products from five neighborhood parks and around specific park amenities, such as playgrounds.		Action	Elvia Caldera
4. Consideration of the 1st extension request of the approval of the Final Plat for the Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East, c/o EHM Engineers/Tim Vawser on behalf of Kevin Bradshaw.		Action	Mitch Humble
5. Consideration of the adoption of the 2010-2011 fiscal year budget.		Action	Lorie Race
6. Public input and/or items from the City Manager and City Council.			
<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>			
<b>IV. <u>PUBLIC HEARINGS:</u> 6:00 P.M. –</b>			
1. Consideration for an appeal of the Planning & Zoning Commission's decision on July 27, 2010, regarding one of the conditions of approval of Special Use Permit granted to allow an expansion by more than 25% of an existing religious facility on property located at 203 Madison Street, c/o Sherry Keyt on behalf of the Wesleyan Holiness Church. (app.2381)		Action	Mitch Humble
<b>V. <u>ADJOURNMENT:</u> to Executive Session to consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office. §Idaho Code 67-2345(1) (a).</b>			

**\*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.**

4:00 P.M.

The purpose of the meeting is to continue the review of the Preliminary Budget for Fiscal Year 2010-2011.

Present: Lance W. Clow, Don Hall, Lee Heider. David E. Johnson William Kezele, Greg Lanting

Absent: Trip Craig

City Staff Present: City Manager Tom Courtney, Assistant City Manager Travis Rothweiler,  
Community Development Director Mitch Humble, Chief Finance Director Lorie Race, Budget  
Coordinator Darren Huber, Deputy City Clerk/Recording Secretary  
Leila A. Sanchez

Chief Finance Director Race continued the review of the Preliminary Budget for Fiscal Year 2010-2011.

Mayor Hall stated that a quorum is present.

Discussion followed.

-Golf Club fryer, benches, and signs.

Assistant City Manager Rothweiler reviewed a portion of the Golf Club Contract Section 6. Councilperson Lanting gave an update on the Tee boxes, golf projects, and the Men's Golf Association at the Golf Club.

City Manager Courtney reviewed the adoption of the budget ordinance.

-Fireworks Project

Chief Finance Director Race stated that we currently have \$8,000 in the fireworks fund. Contributions were received of \$25,275 and expenditures were right at \$25,000. Councilperson Clow suggested budgeting \$7,275.00 (contributions) + \$ 8,000 (City).

Councilperson Kezele asked if we know of any cities who pay for their fireworks project. Assistant City Manager Rothweiler stated that the City of Jerome did pay for their fireworks display.

-Municipal Outsource Grants

Chief Finance Director Race stated that the IMPOG funds have been reserved for the Twin Falls Municipal Band (\$21,161), Trans IV (\$31,500), Boys & Girls Club (\$23,500), Magic Valley Arts Council (\$9,000), and Southern Idaho Tourism (\$4,000). Leaving a balance of \$10,839 in IMPOG.

Budget Coordinator Huber stated that \$10,839 has been reserved for the Crisis Center of the Magic Valley.

Chief Finance Director Race stated the following for clarification in regards to the Fireworks Fund. The City received \$28,594. Expenditures were \$25,275 and projected surplus was \$3,319.

**MOTION:**

Councilperson Lanting made the motion to move the Crisis Center of the Magic Valley (\$10,839) under the City Manager budget, and have the requests reviewed by the Finance Committee. The motion was seconded by Councilperson Johnson and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.

**Recess: 4:51**

**Reconvened: 5:00**

-----5:00 P.M.-----

Present: Lance Clow, Trip Craig, Don Hall, Dave Johnson, Greg Lanting, Will Kezele, Lee Heider

Absent: None.

Staff Present: City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderich, Community Development Director Mitch Humble, Chief Finance Director Lorie Race, Budget Coordinator Darren Huber, Staff Sergeant Dan McAtee, Staff Sergeant Dennis Pullin, Parks & Recreation Director Dennis Bowyer, City Engineer Jackie Fields, Deputy City Clerk/ Recording Secretary Leila Sanchez.

Mayor Hall called the meeting to order at 5:00 P.M. He invited all present, who wished to, to recite the Pledge of Allegiance to the Flag with him and led the pledge of allegiance. A quorum was present. Mayor Hall introduced City staff

**PROCLAMATIONS:** None.

## **AGENDA ITEMS**

### **I. ITEMS FOR CONSIDERATION:**

4. Consideration of the 1st extension request of the approval of the Final Plat for the Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East, c/o EHM Engineers/Tim Vawser on behalf of Kevin Bradshaw.

Community Development Director Humble reviewed the request. Staff recommends a 1-year extension (to September 08, 2011) on the approval of the filing requirement of the final plat for the Dry Creek Subdivision subject to the original two (2) conditions of approval.

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

#### **MOTION:**

Councilperson Lanting made the motion to grant another year to September 8, 2011, to the request of the approval of the Final Plat for the Dry Creek Subdivision, .44(+/-) acres consisting of two (2) residential lots on property located at 1969 Shoup Avenue East, c/o EHM Engineers/Tim Vawser on behalf of Kevin Bradshaw, with the following two conditions:

1. Subject to final technical review by the Engineering, Fire, and Zoning Department to ensure compliance with all applicable City Code Requirements and Standards.
2. Subject to the legend stating the residential use/density of single family.

The motion was seconded by Councilperson Kezele and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

COPY

ORDINANCE NO. 3006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE §§10-12-2.3(I) AND 10-12-2.4(I) BY CHANGING THE TIME REQUIRED FOR ACCEPTANCE OF A FINAL PLAT APPLICATION AND FILING, AND LIMITING EXTENSIONS FOR THOSE TIME REQUIREMENTS.

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

Section 1: That Twin Falls City Code §10-12-2.3(I) is amended as follows:

“10-12-2-3: PRELIMINARY PLAT: ...

(I) Approval Period:

1. Failure to file and obtain the certification of the acceptance of the final plat application by the Administrator within ~~one~~ two years after action by the Commission shall cause all approvals of said preliminary plat to be null and void, unless an extension of time is applied for by the subdivider and granted by the Commission. Only one extension may be granted by the Commission for a term of two years.

2. In the event that the development of the preliminary plat is made in successive contiguous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of ~~one~~ two years may be considered for final approval without resubmission for preliminary plat approval.”

Section 2: That Twin Falls City Code §10-12-2.4(I) is amended as follows:

“10-12-2-4: FINAL PLAT:

(I) Approval Period:

Final plat shall be filed with the county recorder within ~~one~~ two years after written approval by the council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the council. Only one extension may be granted by the Council for a term of two years.”

PASSED BY THE CITY COUNCIL,  
SIGNED BY THE MAYOR

July 25, 2011.

July 25, 2011.

  
MAYOR

ATTEST:

  
DEPUTY CITY CLERK

PUBLISH: Thursday, August 4, 2011



**DATE:** MONDAY, SEPTEMBER 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Mitch Humble, Community Development Department

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## AGENDA ITEM I-

**Request:** Request for approval of a 5th and final extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc.

### Regulatory Impact:

Approval of this request will allow the applicant to record the final plat without going back through the process. If approved the final plat would expire on August 28, 2013. The plat shall be filed with the County Recorder by August 28, 2013 otherwise all previous approvals shall be come null and void.

### History/Analysis:

This site was rezoned from RR to R-2 in July 2004 and Annexed on January 3<sup>rd</sup>, 2006 with an R-2 zoning designation.

On August 28, 2006, the City Council approved the final plat of the Grandview Estates Subdivision subject to two (2) conditions:

- 1) Subject to final technical review by the Engineering Department and
- 2) Proposed park area to comply with new Park Ordinance and to provide adequate off-street parking, as per City Standards.

As per Title 10; Section 12; Chapter 12.2.4 "...unless the final plat was filed with the County Recorder by August 28, 2007 approval would be null and void."

### Prior to the recent adoption of Ord #3006, City Code 10-12-2.4(l) stated:

"(l) Approval Period: Final plat shall be filed with the County Recorder within one year after written approval by the Council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the Council.

Being aware the plat would not be filed with the County Recorder's office by the end of the 1 year approval time the developer/owner requested a 1-year extension, and

On August 7, 2007 the City Council unanimously approved a 1-year extension (good until August 28, 2008) of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road with the following conditions:

- 1) Subject to final technical review by the Engineering Department, and
- 2) Proposed park area to comply with new Park Ordinance and to provide adequate off street parking, as per City Standards and encourage developer to work with City staff to provide a pressurized irrigation system, and
- 3) To encourage developer to work with City staff to provide a pressurized irrigation system.

On **August 25, 2008** the City Council unanimously approved a 2<sup>nd</sup> 1-year extension (until August 28, 2009) of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road with the following conditions:

- 1) Subject to final technical review by the Engineering Department.
- 2) Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
- 3) To encourage developer to work with City staff to provide a pressurized irrigation system.
- 4) Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
- 5) Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
- 6) A Weed Management Plan approved by City staff.

On **August 24, 2009** the City Council unanimously approved a 3<sup>rd</sup> 1-year extension (until August 28, 2010) of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road with the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across its Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

On **August 09, 2010** the City Council unanimously approved a 4<sup>th</sup> 1-year extension (until August 28, 2011) of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road with the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.

8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across its Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

## Analysis

Attached is a request from Tim Vawser with EHM Engineers, Inc., on behalf of Justin Peterson, owner/developer, asking for a 5th extension of the final plat of the Grandview Estates Subdivision. He states that the developer's intent was to install public improvements prior to recording the plat. He further states the current market has made it necessary to delay construction until an improvement is seen in lot sales.

On July 25, 2011 the City Council approved a request to amend Title 10; Chapter 12; Sections 2.3(l) and 2.4(l) and adopted Ordinance #3006. The amendment modified sections 10-12-2.3(l) and 10-12-2.4(l): "Approval Period" for Preliminary and Final Plats of the Twin Falls City Code; Title 10; Zoning & Subdivision Regulations by extending the length of the initial approval period from one year to two years and limiting the length of time allowed for an extension of those approvals from an indefinite time period to limiting the number of extension to one time only for a maximum period of two years. After the maximum approval time of four (4) years, the developer would be required to record the final plat and meet the city's requirements for bonding, financial guarantee or placing the final plat in a trust agreement. Failure to do so will void the approval and the platting process will be required to start over.

**If the request for a 5<sup>th</sup> extension is granted approval of the final plat of the Grandview Estates Subdivision will expire on August 28, 2013.**

## Conclusion:

Staff recommends approval of a 5th and final 2-year extension of the filing requirement on the final plat of Grandview Estates Subdivision subject to the nine (9) conditions placed on the approval of extension #4, granted August 10, 2010, which are as follows:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across its Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

**Prior to August 28, 2013 the developer shall record the final plat and meet the city's requirements for bonding, financial guarantee or placing the final plat in a trust agreement-as approved by the City Engineer and City Council. Failure to do so will void the approval and the platting process will be required to start over.**

## Attachments:

- |  |  |
|--|--|
| 1. Letter of Request(s)                              | 5. Minutes of the August 28, 2006, August 7, 2007, August 25, 2008, August 24, 2009 & August 09, 2010 City Council meeting |
| 2. Area Map of the Plat (2)                          | 6. Ord #3006   |
| 3. Approved Preliminary Plat                         |  |
| 4. Approved Final Plat-modified to meet condition #8 |  |

Date: August 5, 2011

City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Attn: Rene'e Carraway

REF: Grandview Estates  
Final Plat Extension

Dear Rene'e,

Please let this letter serve as the official request on behalf of Justin Peterson, the owner of the development, for an extension of the approval of the Final Plat of Grandview Estates Subdivision. Included is an 8.5 x 11 of the final plat for your use.

Please notify me when this item will be scheduled on the Council's agenda and please feel free to call me at 734-4888 if you have any questions.

Sincerely,



Tim Vawser  
EHM Engineers Inc.

*OK To schedule same rights as  
last extension.*



Cc: Justin Peterson

RECEIVED  
AUG 05 2011  
CITY OF TWIN FALLS  
PLANNING & ZONING



**CITY OF TWIN FALLS**  
**Community Development Department**  
324 Hansen Street E  
P.O. Box 1907  
Twin Falls, ID 83303-1907

Phone: 208-735-7267  
Fax: 208-736-2641  
www.tfid.org

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August 10, 2010

EHM Engineering, Inc  
c/o Tim Vawser  
621 N College Rd, Ste 100  
Twin Falls, ID 83301

Re: Zoning Request

Dear Applicant;

At its August 9, 2010 regularly scheduled public meeting the Twin Falls City Council approved a request for a one year final plat the 4<sup>th</sup> extension for the Grandview Estates Subdivision approximately 40 (+/-) acres consisting of 133 residential lots and 2 tracts located at the southeast corner of Grandview Drive North and Federation Road. The Grandview Estates Subdivision final plat extension was approved through August 28, 2010 subject to the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across its Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

City Code 10-12-2.4(l) states..."The final plat shall be filed with the county recorder within one year after written approval by the City Council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the sub-divider and granted by the Council."

Enclosed is a copy of the Findings of Fact, Conclusions of Law and Decisions. This statement establishes the legal basis for the Twin Falls City Council decision to approve your request. If you have any questions about the Findings, please do not hesitate to contact the office of Planning & Zoning at 208-735-7267.

Sincerely,

Zoning & Development Manager

# EHM Engineers, Inc.

ENGINEERS SURVEYORS / PLANNERS

IN THE FIELDS OF:  
PLANNING  
SURVEYING  
HIGHWAYS  
WATER  
SEWAGE  
STRUCTURAL  
SUBDIVISIONS  
BRIDGES  
ENVIRONMENTAL  
QUALITY CONTROL  
CONSTRUCTION MGMT.

RECEIVED  
JUL 22 2010

Date: July 23, 2010

BY: .....  
City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Attn: Renee Carraway

REF: Grandview Estates Final Plat Extension

Renee,

Please let this letter serve as the official request from Justin Peterson, the owner of the development, for another extension of the approval of the Final Plat of Grandview Estates Subdivision. As per conditions of approval from the previous extension the plat has been revised along the west boundary to provide additional right of way. Although it's somewhat early to submit an extension request, the expiration date is not until the 28<sup>th</sup> of August, I wanted to give Engineering a chance to review the changes to the plat. New closures for those lots are included for the Engineering departments review. Also included is an 8.5 x 11 of the final plat for your use.

Please notify me when this item will be scheduled on the Council's agenda and please feel free to call me at 734-4888 if you have any questions.

Sincerely,



Tim Vawser  
EHM Engineers Inc.

Cc: Justin Peterson

RECEIVED  
JUL 26 2010  
CITY OF TWIN FALLS  
PLANNING & ZONING

IN THE FIELDS OF:  
PLANNING  
SURVEYING  
HIGHWAYS  
WATER  
SEWAGE  
STRUCTURAL  
SUBDIVISIONS  
BRIDGES  
ENVIRONMENTAL  
QUALITY CONTROL  
CONSTRUCTION MGMT.

Date: July 22, 2009

City of Twin Falls  
P.O. Box 1907  
Twin Falls, Idaho 83303

Attn: Renee Caraway

REF: Grandview Estates Final Plat Extension

Renee,

Please let this letter serve as the official request from Justin Peterson, the owner of the development, for another extension of the approval of the Final Plat of Grandview Estates Subdivision. The developer's intent was to install public improvements prior to recording the plat. The current market has made it necessary to delay construction until an improvement is seen in lot sales. Also included is an 8.5 x 11 of the final plat for your use.

If you will notify me when this item will be scheduled on the Council's agenda I will send out the necessary mailings.

Sincerely,



Tim Vawser  
EHM Engineers Inc.

Cc: Justin Peterson

RECEIVED  
JUL 22 2009  
BY:.....



RECEIVED  
JUL 13 2006

BY: .....



Unplatted

Hometowne

Northern  
Passage

Grandview  
Estates

Canyon Trails

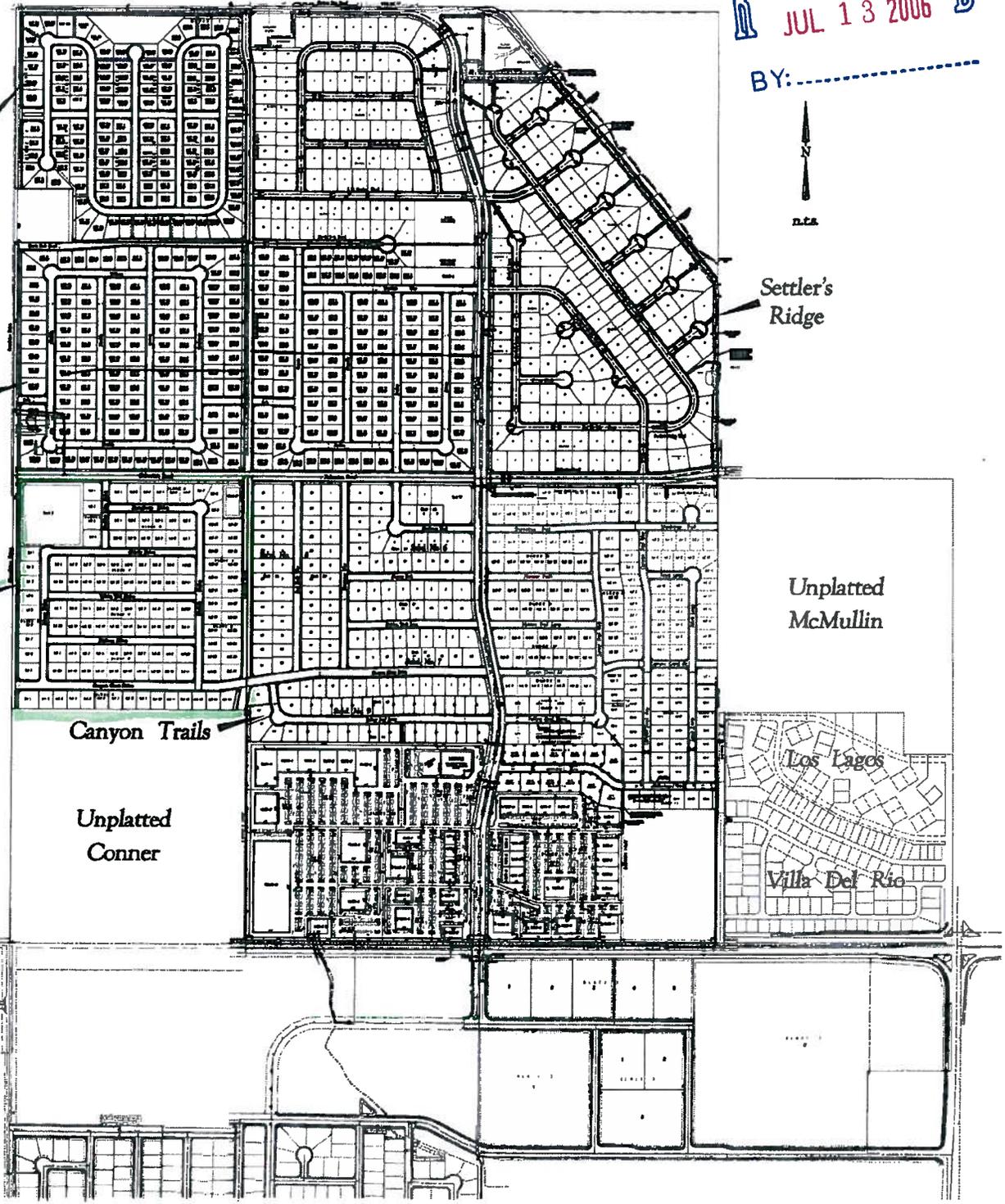
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Conner

Settler's  
Ridge

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McMullin

Los Lages

Villa Del Rio







COUNCIL MEMBERS:

SHAWN	LANCE	TRIP	GLENDA	DON	DAVID E.	GREG
BARIGAR	CLOW	CRAIG	DWIGHT	HALL	JOHNSON	LANTING
	<i>Mayor</i>		<i>Vice Mayor</i>			

**AMENDED MINUTES**

FOR THE MEETING OF THE TWIN FALLS CITY COUNCIL, MONDAY, AUGUST 28, 2006

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**5:00 P.M.**

**Present: Mayor Lance Clow, Vice Mayor Glenda Dwight, Councilpersons Shawn Barigar, Trip Craig, Don Hall, David Johnson, Greg Lanting, Finance Director Gary Evans, Assistant Finance Director Lorie Race, Community Development Director Mitch Humble, City Engineer Jackie Fields, Fire Chief Ron Clark, Staff Sergeant Craig Stotts, and Deputy City Clerk Leila Sanchez.**

Mayor Clow called the meeting to order at 5:00 p.m. and invited all present, who wished to, to recite the Pledge of Allegiance to the flag with him.

5:00 P.M.

**II. ITEMS FOR CONSIDERATION:**

3. Consideration of the final plat of Grandview Estates Subdivision, 40.28 acres (+/-) located on the southeast corner of Grandview Drive North and Federation Road.

Troy Vitek, EHM Engineers, Inc., representing the applicant, explained the request using overhead projections. The subdivision would include a three acre City park and a retention area. The subdivision would be completed in two phases.

Community Development Director Humble reviewed the request using overhead projections. The Planning and Zoning Commission approved the preliminary plat on April 11, 2006, with the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new Park Ordinance. Provide adequate off-street parking, as per City Standards.

Council discussion followed:

-Proposed bike path location on Federation Road to run on the side.

-Final technical review by the Engineering Department to include perimeter streets being brought up to current City Standards upon development.

Councilperson Barigar made a motion to approve the final plat of Grandview Estates Subdivision, 40.28 acres, on the southeast corner of Grandview Drive North and Federation Point, as presented, with the conditions of the Planning and Zoning Commission. The motion was seconded by Councilperson Hall, and roll call vote showed all members present voted in favor of the motion. The motion passed.

**AUGUST 06, 2007**

**CITY COUNCIL PUBLIC MEETING**

**PRESENT:** Mayor Lance Clow, Vice Mayor Glenda Dwight, Councilpersons David Johnson, Shawn Barigar, Don Hall, City Manager Tom Courtney, Economic Development Director Melinda Anderson, Community Development Director Mitch Humble, Deputy City Clerk Sharon Bryan **Absent:** Councilperson Trip Craig and Greg Lanting.

City Council took a tour through the City of Twin Falls incident command trailer and new fire truck.

Mayor Clow called the meeting to order at 5:23: He then invited all present who wish, to recite the Pledge of Allegiance to the Flag. The City Council then considered the following items.

**II. ITEMS FOR CONSIDERATION:**

- 5. Consideration of an extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road.**

Community Development Director Mitch Humble explained that on August 28, 2006 the City council approved the final plat of the Grandview Estates Subdivision subject to two conditions: 1) Subject to final technical review by the Engineering Department and 2) Proposed park area to comply with new Park Ordinance,. Provide adequate off street parking, as per City Standards. Being aware the plat would not be recorded by the one year time the developer/owner has requested a one year extension. He explained that approval of this request will allow the applicant to record the final plat without going back through the process.

Johnson – Is Engineering Dept. responsible for slowing process down.

Barigar – Other subdivision fed by PI systems?

Humble - Some are coming along. Plans are in the works for a PI station out there.

Johnson – Justin Peterson EHM Engineers – Any problem with putting a PI station out there. EHM said they would not have a problem with putting in a PI system. He gave council some history on the development of the area and the canal systems.

Councilperson Johnson made a motion to approve extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federal Road with the following conditions: 1) Subject to final technical review by the Engineering Department and 2) Proposed park area to comply with new Park Ordinance and to provide adequate off street parking, as per City Standards and encourage developer to work with City staff to provide a pressurized irrigation system. Councilperson Dwight seconded the motion and roll call vote showed all members present in favor of the motion.

**COUNCIL MEMBERS:**

LANCE	TRIP	DON	LEE	DAVID E.	WILLIAM A.	GREG
CLOW	CRAIG	HALL	HEIDER	JOHNSON	KEZELE	LANTING
<i>Mayor</i>				<i>Vice Mayor</i>		



**MINUTES**  
 Meeting of the Twin Falls City Council  
**August 25, 2008**  
 City Council Chambers  
 305 3<sup>rd</sup> Avenue East Twin Falls, Idaho


**COUNCIL MEMBERS ABSENT:** Lance Clow, Trip Craig, Don Hall, Lee Heider David E. Johnson, William Kezele, Gregory Lanting.

**STAFF PRESENT:** City Manager Tom Courtney, City Attorney Fritz Wonderlich, Community Development Director Mitch Humble, Finance Director Gary Evans, Assistant Finance Director Lorie Race, Parks and Recreation Director Dennis Bowyer, Airport Manager Bill Carberry, Deputy City Clerk Leila A. Sanchez.

Mayor Clow called the meeting to order at 5:00 P.M. He invited all present, who wished to, to recite the Pledge of Allegiance to the Flag with him. A quorum was present. Mayor Clow introduced City staff.

The following was added to the agenda:

Executive Session to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student. 67-2345(b)

**AGENDA ITEMS**

**II. ITEMS FOR CONSIDERATION:**

- 4. Consideration of a 2<sup>nd</sup> extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Troy Vitek, EHM Engineers, Inc.

Community Development Director Humble reviewed the request.

Staff recommends approval of a 2<sup>nd</sup> 1-year extension of the filing requirement on the final plat of Grandview Estates Subdivision subject to the following conditions of approval for the 1<sup>st</sup> extension:

- 1. Subject to final technical review by the Engineering Department.
- 2. Proposed park area to comply with new park ordinance and to provide adequate off street parking as per City standards.
- 3. To encourage developer to work with City staff to provide a pressurized irrigation system.

Upon Engineering review and to be consistent with other similar requests staff believes it would be appropriate to add the following conditions:

- 1. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
- 2. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.

MINUTES

August 25, 2008

Page 2 of 2

3. A Weed Management Plan approved by City staff.

Troy Vitek, EHM Engineers, representing the applicant, concurs with all recommendations.

**MOTION:**

Councilperson Johnson made the motion to approve the 2nd extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Troy Vitek, EHM Engineers, Inc. to expire August 28, 2009, as presented with the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.

The motion was seconded by Councilperson Heider and roll call vote showed all members present voted in favor of the motion. The motion passed with a vote of 7 to 0.

**COUNCIL MEMBERS:**

LANCE	TRIP	DON	LEE	DAVID E.	WILLIAM A.	GREG
CLOW	CRAIG	HALL	HEIDER	JOHNSON	KEZELE	LANTING

**Mayor**

**Vice Mayor**



Minutes  
**Meeting of the Twin Falls City Council**  
**August 24, 2009**  
 City Council Chambers  
 305 3<sup>rd</sup> Avenue East Twin Falls, Idaho

**PLEDGE OF ALLEGIANCE TO THE FLAG**  
**CONFIRMATION OF QUORUM**  
**INTRODUCTION OF STAFF**  
**CALL MEETING TO ORDER: 5:00 P.M.**  
**CONSIDERATION OF THE AMENDMENTS TO THE AGENDA.**  
**PROCLAMATIONS: None.**

<b>AGENDA ITEMS</b>		Purpose	By:
<b>I. CONSENT CALENDAR:</b>		Action	Staff Report
<ol style="list-style-type: none"> <li>1. Consideration of accounts payable for August 18 – 24, 2009.</li> <li>2. Consideration of the August 17, 2009, Council Minutes.</li> <li>3. Consideration to accept Pressurized Irrigation Fee Deferral from Xavier School.</li> <li>4. Consideration of a request to defer certain improvements, namely utility pole relocation in a curb island located at 459 Locust Street North for Michael Ajeti.</li> <li>5. Consideration of a request to defer certain improvements, namely construction of a sidewalk abutting Addison Avenue East between the approach and west property line for St. Luke's Magic Valley Regional Medical Center, LTD.</li> </ol>			
<b>II. ITEMS FOR CONSIDERATION:</b>			
<ol style="list-style-type: none"> <li>1. Consideration of a request for a donation of a tree with a plaque from the Armenian American Community in Twin Falls.</li> <li>2. Consideration of a request to award the bid for the replacement of the HVAC system at the Golf Course's Club House.</li> <li>3. Consideration of a request to award the bid for the construction of a new Maintenance Building at the Golf Course.</li> <li>4. Review policy questions to be included in the national citizen survey.</li> <li>5. Consideration of a proposed lump sum contract and proposed scope of work with HDR for the purpose of developing a comprehensive Energy Efficiency and Conservation Strategy for the City of Twin Falls in an amount of \$35,300, and authorizing the City Manager and sign the contract.</li> <li>6. Consideration to authorize the Mayor and City Manager to execute the right-of-way agreements for the Falls Avenue West Road Widening Project:               <ol style="list-style-type: none"> <li>a. Michael and Carol Kimball, Parcel 10, 510 Falls Avenue West, with the compensation amount of \$ 6,096.36.</li> <li>b. The Richard and Freda Beard Living Trust, Parcel 21, 676 Falls Avenue West, with the compensation amount of \$ 12,380.00.</li> </ol> </li> <li>7. Consideration of a request to approve speed limit change to Hankins Rd. between Kimberly Rd. and Addison Ave.</li> <li>8. Consideration of a request to approve speed limit changes to Canyon Springs Rd. and Centennial Park Rd. in the Snake River Canyon.</li> <li>9. Consideration of a 3rd extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc.</li> <li>10. Consideration of a request from the Twin Falls School District, #411 to waive the zoning application fee for a PUD Amendment request.</li> <li>11. Consideration of a request of Rick Royalty for waiver of the non-conforming building expansion permit process to allow an expansion of a non-conforming residence at 851 Eastland Drive South.</li> </ol>		Action	Dennis Bowyer
		Action	Dennis Bowyer
		Action	Dennis Bowyer
		Review Action	Travis Rothweiler Travis Rothweiler
		Action	Jackie Fields
		Action	Jackie Fields
		Action	Jackie Fields
		Action	Mitch Humble
		Action	Mitch Humble
		Action	Mitch Humble

12. Public input and/or items from the City Manager and City Council.		
<b>III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</b>		
<b>IV. PUBLIC HEARINGS: 6:00 P.M. -</b>		
1. Request for a Comprehensive Plan Amendment which would amend Future Land Use Map, 2-4, for property located south of Cheney Drive West, west of Park View Drive, and north of North College Road West from Medium Density Residential to Office/Professional c/o Osprey, LLC (app. 2320)	Action	Mitch Humble
2. Public hearing to receive comments on the Budget for FY 2009-2010.	Action	Tom Courtney
<b>V. ADJOURNMENT:</b>		

**COUNCIL MEMBERS PRESENT:** Lance W. Clow, Trip Craig, Don Hall, Lee Heider, William Kezele, Gregory Lanting  
 David Johnson via telephone.

**COUNCIL MEMBERS ABSENT:** None.

**STAFF PRESENT:** City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Community Development Director Mitch Humble, City Engineer Jackie Fields, Parks & Recreation Director Dennis Bowyer, Finance Director Gary Evans, Assistant Finance Director Lorie Race, Budget Coordinator Darren Huber, Staff Sergeant Dennis Pullin, Deputy City Clerk/Recording Secretary Leila Sanchez.

Mayor Clow called the meeting to order at 5:00 P.M. He invited all present, who wished to, to recite the Pledge of Allegiance to the Flag with him. A quorum was present. Mayor Clow introduced City staff.

**CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:** None.

Mayor Clow stated that Agenda Items I.3. and I.4. of the Consent Calendar be removed from the Consent Calendar and be heard separately.

**PROCLAMATIONS:** None.

## AGENDA ITEMS

### II. ITEMS FOR CONSIDERATION:

9. Consideration of a 3rd extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc.

Community Development Director Humble reviewed the request. Staff recommends approval of a 3<sup>rd</sup> 1-year extension of the filing requirement on the final plat of Grandview Estates subdivision subject to the following conditions of approval:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.

MINUTES

August 24, 2009

Page 3 of 3

7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb.
9. Subject to conformance with the current Code regarding pressurized irrigation.

Tim Vawser, EHM Engineers, representing the applicant, stated that he was in agreement with all the conditions with the exception of Condition #8. He requested for leniency regarding the park area.

Community Development Director Humble stated that he did not see a problem with the park area. Policy is to make sure the subdivision has pressure irrigation access.

**MOTION:**

Councilperson Lanting made the motion to approve the 3<sup>rd</sup> 1-year extension of filing requirement on the final plat of Grandview Estates Subdivision subject to the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and within the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read:  
A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Dr. N. which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across its Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

The motion was seconded by Councilperson Kezele and roll call vote showed all members voted in favor of the motion. Approved 7 to 0.

**COUNCIL MEMBERS:**

LANCE	TRIP	DON	LEE	DAVID E.	WILLIAM A.	GREG
CLOW	CRAIG	HALL	HEIDER	JOHNSON	KEZELE	LANTING
		<i>Mayor</i>	<i>Vice Mayor</i>			



**MINUTES**  
**Meeting of the Twin Falls City Council**  
**August 9, 2010**  
**City Council Chambers**  
**305 3<sup>rd</sup> Avenue East Twin Falls, Idaho**

<b>CALL MEETING TO ORDER: 5:00 P.M.</b> <b>PLEDGE OF ALLEGIANCE TO THE FLAG</b> <b>CONFIRMATION OF QUORUM</b> <b>INTRODUCTION OF STAFF</b> <b>CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:</b> <b>PROCLAMATIONS: None.</b>			
<b>AGENDA ITEMS</b>		<b>Purpose</b>	<b>By:</b>
<b>I. <u>CONSENT CALENDAR:</u></b> 1. Consideration of accounts payable for August 2 – 9, 2010. 2. Consideration of the August 2, 2010, Minutes. 3. Consideration of a request from Sue Spain of the Hispanic Heritage Fiesta Committee to approve the 21 <sup>st</sup> Annual Hispanic Heritage Fiesta to be held at the Twin Falls City Park on August 14 and 15, 2010. 4. Consideration of a request to approve an event sponsored by Nazzkart/Lee Family Broadcasting to raise funds for the 4 <sup>th</sup> Annual Underprivileged Kids Christmas Party held in December 2010.		Action	Staff Report Sharon Bryan Leila A. Sanchez Dan McAtee  Dennis Pullin
<b>II. <u>ITEMS FOR CONSIDERATION:</u></b> 1. Consideration to recognize the service of Shawn Black, skateboarding professional, by presenting a plaque to him 2. Consideration of a 4th extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc. 3. Adopt preliminary budget for the City and set August 23, at 6:00 pm as the date and time for the budget hearing. 4. Public input and/or items from the City Manager and City Council.		Presentation  Action  Action	Stacy McClintock  Mitch Humble  Tom Courtney
<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>			
<b>IV. <u>PUBLIC HEARINGS:</u> – None.</b>  <p align="center"><b>6:00 P.M.</b></p> <b>PUBLIC INPUT SESSION FOR THE FOLLOWING ITEM FOR CONSIDERATION:</b> 1. Consideration of an Ordinance amending the Twin Falls City Code by creating new section 9-9-21, prohibiting drivers from using electronic devices to write, send, or read text-based communications.		Action	Travis Rothweiler
<b>V. <u>ADJOURNMENT:</u></b>			

***\*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:** Lance Clow, Greg Lanting, Don Hall, Lee Heider, Dave Johnson, Will Kezele

**ABSENT:** Trip Craig

**STAFF PRESENT:** City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Community Development Director Mitch Humble, City Engineer Jackie Fields, Finance Director Lorie Race, Budget Manager Darren Huber, Staff Sergeant Dennis Pullin and Staff Sergeant Dan McAtee, Captain Brian Pike, Recreation Supervisor Stacy McClintock, Deputy City Clerk/Recording Secretary Leila Sanchez

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

**CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:** None.

Councilperson Clow clarified to the public that discussion on the preliminary budget 2010-2011 would continue after the 6:00 P.M. **PUBLIC INPUT SESSION** portion of the meeting.

**PROCLAMATIONS:** None.

## AGENDA ITEMS

### I. ITEMS FOR CONSIDERATION:

2. Consideration of a 4th extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc.

Community Development Director Humble reviewed the request.

Staff recommends approval as presented.

Discussion followed:

Community Development Director Humble stated that in City Code there is no limit to approving final extensions.

#### **MOTION:**

Councilperson Lanting made the motion to approve the 4th extension of the final plat of Grandview Estates Subdivision, 40 (+/-) acres, to develop 133 residential lots and 2 tracts, located at the southeast corner of Grandview Drive North and Federation Road, c/o Tim Vawser, EHM Engineers, Inc. (August 28, 2011 expiration) as presented with the following conditions:

1. Subject to final technical review by the Engineering Department.
2. Proposed park area to comply with new park ordinance and to provide adequate off street parking, as per City standards and encourage developer to work with City staff to provide a pressurized irrigation system.
3. To encourage developer to work with City staff to provide a pressurized irrigation system.
4. Subject to site plan amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City code requirements and standards.
5. Subject to arterial and collector streets adjacent and with the property being rebuilt or built to current City standards upon development of the property.
6. A Weed Management Plan approved by City staff.
7. The plat note(s) are revised to read: A 15 ft. wide utility and drainage easement shall exist on all lot lines adjacent to street frontages, except Grandview Drive North which shall be 10 ft wide.
8. Amend the final plat to provide uniform right-of-way width of 46 ft. while allowing the roadway width to remain at 32 ft. to the face of curb and to allow the park acreage to be diminished by the amount of right of way dedication across the Grandview frontage.
9. Subject to conformance with the current Code regarding pressurized irrigation.

**The motion was seconded by Vice Mayor Heider and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.**

COPY

ORDINANCE NO. 3006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE §§10-12-2.3(I) AND 10-12-2.4(I) BY CHANGING THE TIME REQUIRED FOR ACCEPTANCE OF A FINAL PLAT APPLICATION AND FILING, AND LIMITING EXTENSIONS FOR THOSE TIME REQUIREMENTS.

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

Section 1: That Twin Falls City Code §10-12-2.3(I) is amended as follows:

“10-12-2-3: PRELIMINARY PLAT: ...

(I) Approval Period:

1. Failure to file and obtain the certification of the acceptance of the final plat application by the Administrator within ~~one~~ two years after action by the Commission shall cause all approvals of said preliminary plat to be null and void, unless an extension of time is applied for by the subdivider and granted by the Commission. Only one extension may be granted by the Commission for a term of two years.

2. In the event that the development of the preliminary plat is made in successive contiguous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of ~~one~~ two years may be considered for final approval without resubmission for preliminary plat approval.”

Section 2: That Twin Falls City Code §10-12-2.4(I) is amended as follows:

“10-12-2-4: FINAL PLAT:

(I) Approval Period:

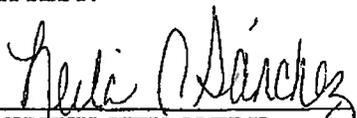
Final plat shall be filed with the county recorder within ~~one~~ two years after written approval by the council; otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the council. Only one extension may be granted by the Council for a term of two years.”

PASSED BY THE CITY COUNCIL,  
SIGNED BY THE MAYOR

July 25, 2011.  
July 25, 2011.

  
MAYOR

ATTEST:

  
DEPUTY CITY CLERK

PUBLISH: Thursday, August 4, 2011



# TWIN FALLS POLICE DEPARTMENT

356 3RD AVENUE EAST  
P.O. BOX 3027  
TWIN FALLS, ID 83303-3027

TELEPHONE: (208) 735-4357  
FAX: (208) 733-0876  
www.tfid.org

**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Staff Sergeant Dennis Pullin

## Request:

Consideration of a request to approve the 2011 Oktoberfest sponsored by Steve and Bev O'Connor of O'Dunken's Draught House. Oktoberfest is scheduled to be held Friday, October 7, 2011.

## Time Estimate:

Staff requests that this item be placed on the Consent Calendar.

## Background:

Steve and Bev O'Connor, on behalf of O'Dunken's Draught House, submitted a Special Events Application to hold the Oktoberfest Celebration in the downtown area of Twin Falls. This event is scheduled to be held on Friday, October 7, 2011, from 6:00 p.m. to 12:00 a.m. The event will be held on Main Avenue from Gooding Street to Shoshone Street. Main Avenue will be closed from 5:00 p.m. until 12:00 a.m. Vendors will be set up along Main Avenue in the parking space areas and on the sidewalks. The event sponsors will provide all barricades for street closures and will be required to close and reopen the streets. There will be orange construction fencing placed along the sidewalk near Main Avenue North and Main Street North to aid in preventing pedestrians from entering traffic lanes on Shoshone Street North.

O'Dunken's Draught House will be setting up a beer garden in the parking stall area on Main Street North in front of the Magic Valley Bank. A catering permit has been purchased from O'Dunken's Draught House. Wristbands will be provided by O'Dunken's Draught House and will be required for anyone purchasing and consuming alcohol. Identification will be checked prior to wristbands being issued. The beer garden will be open from 6:00 p.m. to 12:00 a.m. on Friday. O'Dunken's Draught House will be donating funds from the wristband purchases to aid the St. Edward's Food Bank and to assist the Farmers Market for the year of 2012.

There will be food and vendor booths set up in the parking stall areas of Main Avenue North.

There will be two Twin Falls County Sheriff's Reserve Deputies providing security during the event from 6:00 p.m. until 12:00 a.m. or until the crowd is dispersed.

There will be live amplified music being played from 6:00 p.m. until 9:00 p.m. in the 100 Block of Main Avenue North/West.

*"People Serving People"*

Downtown business owners have been notified of the event.

The event sponsors will be required to provide cleanup in all areas affected by the event, to include outlying areas surrounding the event location. There will be port-a-potties provided in the area.

O'Dunken's has provided the required certificate of liability insurance, with the City of Twin Falls as the certificate holder.

**Approval Process:**

N/A

**Budget Impact:**

Approval of this request will not impact the City budget.

**Regulatory Impact:**

N/A

**Conclusion:**

Several relevant City Staff members have met and approved the Special Events Application request. The Twin Falls Police Department Staff recommends that the on-duty Patrol Supervisor be given the authority to order the event organizers to mitigate the sound of amplified music. If there are continued noise complaints, disturbances by those participating in the event, and non-compliance, the on-duty Patrol Supervisor shall terminate the event.

Based on this request and the information provided, Staff recommends that this event be approved.

**Attachments:**

N/A

DP:aed



# TWIN FALLS POLICE DEPARTMENT

356 3RD AVENUE EAST  
P.O. BOX 3027  
TWIN FALLS, ID 83303-3027

TELEPHONE: (208) 735-4357  
FAX: (208) 733-0876  
www.tfid.org

**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Staff Sergeant Dennis Pullin

## Request:

Consideration of a request to approve the Annual Magic Valley Bank Customer Appreciation Event to be held in the 100 Block of Main Avenue West and North. This event will be sponsored by Magic Valley Bank, Business After Hours, and the Twin Falls Chamber of Commerce. This event will be held on Thursday, September 22, 2011, from 5:00 p.m. to 9:00 p.m.

## Time Estimate:

Staff requests that this item be placed on the Consent Calendar.

## Background:

This event will require the closure of Main Avenue West and Main Avenue North from Shoshone Street to the west side area of the Magic Valley Bank. The event is for invited guests of the Magic Valley Bank, not the general public. The organizers of this event expect 250 to 300 people to attend. The Pressbox Sports Bar and Grill will provide alcohol sales to guests between the hours of 5:00 p.m. to 8:00 p.m. Guests will be required to have wristbands for the purchase of alcohol. Alcohol sales will not be set up until after the Twin Falls Homecoming Parade has concluded and the crowd has dispersed. The Pressbox has obtained a catering permit. Barricades will be provided by the Magic Valley Bank for the street closure. There will be light music provided through a sound system, which will be controlled by members of the Magic Valley Bank. There will also be port-a-potties provided for guests. The Magic Valley Bank will provide garbage cans and will provide cleanup of the area at the conclusion of the event. There will be four (4) port-a-potties set up in the area of the event. Tables for dining will be set up on the sidewalk in front of the Magic Valley Bank, along with the Pressbox Bar and the sound system. Norm's Café will be providing food for the event. The closure of the street will be for guests.

The Twin Falls High School Homecoming Parade will be held on Main Avenue on the same date. The parade should conclude and the crowd should be dispersed by 5:00 p.m. to 5:30 p.m. at the latest. Event sponsors have agreed not to set up the bar on the sidewalk until the crowd from the parade has completely dispersed.

The Twin Falls Police Department did not receive any calls for service pertaining to this event in 2010.

## Budget Impact:

N/A

*"People Serving People"*

Agenda Item for September 12, 2011  
From Staff Sergeant Dennis Pullin  
Page Two

**Regulatory Impact:**

The Council's approval of this request will allow for the street closure in the 100 Block of Main Avenue North/West for approximately four (4) hours. The downtown business owners have been advised of the event.

**Conclusion:**

Several relevant city staff members have met and approved this application with the stipulation that the event organizers do not set up and serve alcohol during the Twin Falls High School Homecoming Parade.

Twin Falls Police Staff recommends that the Council approve this request based on the facts listed above.

**Attachments:**

N/A

DP:aed



**MONDAY**      September 12, 2011  
**To:**              Honorable Mayor and City Council  
**From:**          Mitch Humble, Community Development Department

---

**Request:**

Consideration of a request to appoint Paul McClintock to the Twin Falls City Historic Preservation Commission.

**Background:**

Last month one of our Historic Preservation commissioners', Jan Brumbach, term expired. Jan decided not to seek re-appointment on the Historic Preservation Commission. We were sorry to see her go and her knowledge and passion will be missed. In April 2008 Jan was appointed for a three year term.

Staff posted the vacancy and received two applications for the position. On Friday, August 19<sup>th</sup>, a selection committee made up of Councilman Greg Lanting, Historic Preservation Commission Chairman Darrell Buffalo, Historic Preservation Commissioner Ryan Horsley and City Planner Kelly Weeks, interviewed one of the two applicants. Paul McClintock was very qualified and would serve the City well on the Commission. Therefore, the selection committee recommends that the City Council appoint Paul McClintock to serve a three year term on the Historic Preservation Commission.

The second applicant did not respond to the request for an interview appointment email. I also tried to contact her by phone and email several times after Mr. McClintock's interview.

**Budget Impact:**

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

**Regulatory Impact:**

Approval of this request will get the Historic Preservation Commission back to full membership.

**Conclusion:**

The selection committee recommends that the Council appoint Paul McClintock to serve a three year term on the Historic Preservation Commission.

**Attachments:**

Application letter from Paul McClintock.

Paul McClintock  
581 Alpine  
Twin Falls, ID  
paul.mcclintock1@gmail.com  
208.421.2702

---

Please accept this letter of interest with listed qualifications as my "application" to the Historic Preservation Commission.

Socrates has been most associated with the statement, "An unexamined life is not worth living." While mostly applicable to a single person, the above statement can also apply to a collective body of people such as a city. Twin Falls has rich and humble roots. Much of why Twin Falls began is still carried out today-irrigation for crops. And while it is important to keep moving forward we must still look back to maintain a sense of who we are. When looking to expand a city's economy one must pay attention to preserving history but, at the same time, allowing that economy to prosper. For example, I feel that when/if downtown is rejuvenated it should keep some of its character so that Twin Falls can maintain its identity.

Although not native to Twin Falls I plan on making Twin Falls my home for the next few decades with my wife and two young daughters. My wife and I met in college where she and I both majored in History, we both earned degrees in the aforementioned discipline. Afterwards, I taught history for high school sophomores (World History and Advanced Placement European History) before embarking on a new career path. My wife and I moved here to Twin Falls where I began a new career with the United States Department of Agriculture as a Financial Technician and my wife with the Twin Falls Parks and Recreation department as the Recreation Supervisor. Recently, I was elected to the Twin Falls School Board.

Twin Falls's past can help its future. Many once heavily-used buildings can serve as structures for Twin Falls today and beyond. I would like to see Twin Falls progress, yet maintain its historical integrity. I aim to be part of the committee which sees that happen. I look forward to answering any questions you see fit to satisfy.

Qualifications:

- Bachelor of Arts in History
- History Teacher for nearly three years.
- Vested interest in seeing Twin Falls prosper.
- Involved with the community by winning the school board trustee election.

-Paul McClintock



**September 12, 2011 City Council Meeting**

**To: Honorable Mayor and City Council**

**From: Bill Carberry, Airport Manager**

---

**Request:**

Consideration of a request for the City Council to re-appoint Jim O'Donnell to a second 3 year term on the Airport Advisory Board

**Background:**

Mr. Jim O'Donnell has been a part of the airport community for many years. Mr. O'Donnell has assisted the airport through his efforts to conduct tabletop and full scale emergency response exercises. He was a founding member of the community air show back in the late 1990's and has held key positions in the areas of safety and security. This past year he has stepped up to take on the chairmanship of the air show committee and is in the process of developing a solid start to the air show planning.

**Budget Impact:**

As a member of the Airport Advisory Board, Mr. O'Donnell will provide significant input concerning airport fiscal issues.

**Regulatory Impact:**

Members of the Airport Board are allowed to serve up to two 3 year consecutive terms.

**Conclusion:**

On behalf of the Airport Board, and in light of Mr. O'Donnell's contributions and commitment to our airport and community, staff recommends City Council appoint Mr. Jim O'Donnell to a second 3 year term on the Airport Advisory Board.



**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Troy Vitek, PE. Assistant City Engineer

---

**Request:**

Consideration of a request to schedule a public hearing on October 3, 2011 for the City to include a fee for a Reimbursement Application.

**Time Estimate:**

The staff presentation will take approximately 5 minutes

**Background:**

The City of Twin Falls adopted Ordinance Number 2974 and Resolution 1816 which allows developers to submit an application to the Improvement Reimbursement Committee of the City of Twin Falls if they wish to seek reimbursement for improvements for previously developed and accepted utilities and roadways that benefit future development.

Inputting the information into the City GIS system requires manpower and this fee is set up to help offset the cost of additional manpower to ensure the Reimbursements are being tracked and paid as approved by the Reimbursement Commission.

On June 22, 2011 the Reimbursement Committee approved a fee structure of \$200.00 base fee plus \$10.00 per lot, tract, or parcel impacted. If there are greater than 200 lots impacted the fee will be based on time and materials.

**Approval Process:**

Idaho Statutes require that the Council hold a public hearing after 15 days notice in the newspaper for additional fees.

**Budget Impact:**

Approval of this request will require a developer who wishes to receive a reimbursement per Resolution 1816 to pay a fee to the City.

**Regulatory Impact:**

Approval of the request will allow the City to schedule a public hearing in regards to a fee for a Reimbursement Application.

**Conclusion:**

Staff recommends that the Council approve the request as presented and schedule a public hearing for the October 3, 2011 council meeting.

**Attachments:**

None.



## September 12, 2011 City Council Meeting

**To:** Honorable Mayor and City Council

**From:** Bill Carberry, Airport Manager

---

**Request:** Informational Summary Presentation/Discussion of the Recommended Draft FAA Airport Master Plan Update

**Time Estimate:** 10-15 minutes with additional time for questions.

**Background:** At the June 7, 2010 City Council meeting a contract was awarded to Ricondo & Associates to conduct an FAA Airport Master Plan Update. The project is being financed by the FAA at 95% with the City and County matching 5% of the \$335,871.00 project cost.

The last update to the Airport Master Plan was completed in 2003. The large majority of capital improvements identified in the 2003 plan have been completed over the years. Projects included: rehabilitation of several pavement areas, equipment acquisition, lighting, marking and signage upgrades, and taxiway construction to name a few projects. With the rapid changes in the national economy and the world of aviation, airport master plans are typically updated every 5 to 8 years.

The planning process has included the development of a Technical Review Committee which has allowed for broad participation and guidance from airport tenants and users. Further, the process has included 3 public workshops which have been advertised to include notices to the airport's surrounding neighbors.

Prior to submitting the recommended draft master plan to the FAA, we would like to present the Council with a summary of the plan, discuss the direction of the plan and the accompanying capital program outlined for the near, mid and long term.

**Budget Impact:** The capital program developed in the plan will be coordinated and adjusted with the FAA through regular updates to the airport's 5 year capital improvement program. The City and County will be required to match a percentage (currently 5%) of the airport's FAA grants.

**Regulatory Impact:** The airport master plan is required by the FAA as a tool to assist with the proper development of public use airports that receive federal assistance through the Airport Improvement Program. Master planning helps with the orderly development of an airport through proper investments in a sound capital program.

**Conclusion:** As with all planning documents the need to be flexible in implementing plans is very important. Priorities may change over time due to the economy and shifting needs. The planning process has involved many airport users and the public at large. I believe we can feel confident that the planning product is of the highest quality based upon the broad participation throughout the process.

**Attachments:** None.



**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Darren Huber, Budget Coordinator

---

**Request:**

Consideration of a request to schedule a public hearing on September 26, 2011 at 6:00 p.m. as the date and time for the public hearing to amend the Fiscal Year 2010-11 Budget.

**Time Estimate:**

City Staff will provide a brief presentation. The staff presentation will take approximately 10 minutes, plus any additional time needed to address questions presented by Council members.

**Background:**

This is an end of the fiscal year formality to ensure compliance with the Appropriations Ordinance passed for the current fiscal year. All of the expenditures have been previously reviewed and approved by Council.

**Approval Process:**

Approving the public hearing requires a simple majority (50%+1) of the members in attendance at this meeting.

**Budget Impact:**

This amends the appropriations ordinance for the 2010-2011 fiscal year.

<u>Fund:</u>	<u>Expense:</u>	<u>Revenue Source:</u>
Historic Preservation Committee:		
Design Guidelines for Historic Warehouse District	\$6,000	Federal Grants
Golf Fund		
Kitchen Equipment items, repairs and maintenance	\$30,000	Transfer from Capital Improvement
Library Fund		
Capital Projects	\$183,500	Transfer from Capital Improvement
ICDBG Fund		
3rd Ave Parking, Curb, Gutter	\$332,783	State Grant
Park Development Fund		
Restroom at Sunway Soccer Complex	\$131,047	Reserves from Fund (In Lieu of Fees)
Firework Fund		
Fireworks	\$9,689	Transfer from Capital Improvement
Airport Construction Fund		
FAA Projects	\$302,200	Federal Grants
Water Fund		
Arsenic Compliance	\$13,214,557	Reserves From Fund
Sanitation Fund		
Recycling	\$320,000	Reserves From Fund
20010- 2011 Budget Amendment Total	<b>\$14,523,776</b>	

#### Regulatory Impact:

Section 50-1002 of the Idaho Code states "The city council of any city may, by the same procedure as used in adopting the original appropriation ordinance at any time during the current fiscal year, amend the appropriation ordinance to a greater amount than that adopted, if after the adoption of the appropriation ordinance, additional revenue will accrue to the city during the current fiscal year as a result of increase in state or federal grants or allocations, or as a result of an increase in an enterprise fund or funds to finance the operation and maintenance of governmental facilities and services which are entirely or predominantly self-supporting by user charges, or as a result of an increase in revenues from any source other than ad valorem tax revenues.

#### Conclusion:

City Staff recommends the public hearing for the budget amendment of the Fiscal Year 2010-11 be set for Monday the 26th of September.

#### Attachments:

1. None



**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Lorie Race, Finance Director

---

**Request:** Consideration of a request to schedule a public hearing date of 9-26-11 to consider a proposal to increase utility rates as discussed during the 2011-2012 budget process.

**Time Estimate:** 7-10 minutes

**Background:** During the presentation of the Long Term Planning Committee and budget meetings, we discussed the declining revenues in the Water and Sewer Funds and the regular meetings by staff to adjust expenditures downward to meet those declining revenues.

In the Water Fund, our revenue shortfall for FY 2011 is estimated to be \$370,000 as of August 31, 2011. This is much better than the \$448,000 deficit we were projecting at the end of May, but still off the mark after last year's rate adjustment. The budgeted expenditures for FY 2012 have been reduced by \$109,315, with decreases in personnel, M&O and capital expenditures. There is a 7.6% increase in debt and an increase in interfund transfers. Based on the combination of declining revenues and the cut backs in expenditures, we believe a 6% rate adjustment will help bring this fund in balance for fiscal year 2012.

In the Sewer Fund, our revenue shortfall is estimated to be over \$581,000 through August 31<sup>st</sup>. Unfortunately, the industrial revenue stream continued its downward trend, and accounts for \$380,000, or 65%, of the shortfall. Also, capacity fees fell short of projections due to the down turn in the economy. The budgeted expenditures for FY 2012 have been reduced by \$144,830, with a 22% decrease in debt due to timing on the bonding for improvements at the wastewater treatment plant. Based on this combination of declining revenues and changes in expenditures, we're projecting the need for an 8% rate adjustment in the Sewer Fund.

In the Sanitation Fund, our revenues are down but only because of the City Council's decision to subsidize the incentive-based recycling program. As mentioned during the budget process, sanitation rates will need to be increased by \$3.00 per month to represent the true cost of the program.

The rate for FY 2011 remained at \$14.97 per household per month. Based on costs from PSI, Twin Falls County Landfill, and administrative costs in Sanitation, the true cost to breakeven is \$17.97 per household per month.

**Approval Process:** The Council needs to set 9-26-11 at 6:00 p.m. as the date and time for the public hearing to consider the proposal to increase utility rates for FY 12. An advertisement showing the current rates, the proposed rates, the percentage increases for each and the reason for the increases will be placed in the Times-News on September 15<sup>th</sup> and September 22<sup>nd</sup>. This satisfies the requirement to publish twice, seven days apart.

**Regulatory Impact:** None

**Conclusion:** We recommend the City Council set September 26<sup>th</sup> at 6:00 p.m. as the date and time for the public hearing to consider adopting the proposed utility rate increases discussed throughout the budget process.

**Attachments:** None



**MONDAY**      September 12, 2011

**To:**              Honorable Mayor and City Council

**From:**          Mitch Humble, Community Development Director

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**Request:**

Discussion regarding City owned properties that may be excess to the City's needs and consideration of a request to initiate the process to dispose of excess City owned properties.

**Time Estimate:**

The staff presentation will take approximately 10 minutes. Time will be needed for discussion and questions.

**Background:**

This agenda item has been scheduled for two reasons. First, some Council members have requested to review a map showing all City owned properties and to discuss whether or not all are needed for planned City use. As requested, staff has prepared a map of this discussion. The map is attached for your review. We have identified the various City properties by color, each color corresponding to a specific type of use. For example, those properties that colored dark green are currently being used as parks and open space, or were acquired for that purpose and they're not yet developed. The map has a key at the bottom that states each color's designated use.

The map shows all City owned properties. Staff is prepared to discuss and try to answer the Council's questions on any of the properties. However, there are a few properties we would like to specifically discuss with the Council. Those properties are as follows:

1. Canyon Rim Open Space Near Jump site: A few years ago, the City Council and the developer of the Evel Knevel jump site property approved a land trade agreement. In that agreement, the City is obligated to exchange 6.71 acres of the canyon rim open space land and a 3.59 acre access strip to the developer. The developer will exchange a 6.71 acre parcel, including the jump site and an access strip to the jump site, to the City and build paved access streets to the City's gun range. The developer is ready to now begin the actual exchange process.
2. Southwest Corner of Heyburn and Washington: Several years ago, the City began acquiring right-of-way (ROW) for the Washington Street widening project. This property was acquired in its entirety, rather than just a ROW strip. After removing the necessary ROW, there remains a usable sized lot that the City owns and that is excess to our needs. That portion of the widening project is now complete. Therefore, the City can now consider disposing of the unused portion of the property.
3. Northwest Corner of Grandview and Caswell: When the Castlewood subdivision developed, the City acquired this property with the intent to construct a pressurized irrigation (PI) station on it. Since that time, the City has changed the standard design of our PI stations. We used to construct these stations with a holding pond. We now use much less property and construct PI stations with a smaller holding box. Therefore, staff has determined that this location is no longer needed for a PI station. The lot has a large canal company easement along the Grandview frontage. While the

easement does impact the building envelope, the lot is still buildable. This lot could be designated as excess and sold to someone wanting to build a home on it.

4. 80+/- acres on South Washington: The City acquired this property several years ago with the thought that it could use the property to assist with ground water recharge for our wells south of town. Soon after that, it was determined that the property cannot be used for that purpose. The property is zoned Agriculture and is located outside of the City's utility service boundary. Therefore, it will be difficult to develop for many other purposes.
5. Parking Lot on 2<sup>nd</sup> Ave. South, Near Idaho St.: The City owns this small gravel parking lot. It has about 10 parking spaces. It is located behind the Salvation Army building and next door to a vacant building that is owned by the Urban Renewal Agency (URA). The City only has about three parking leases in that lot that could easily be moved the large paved lot across the street. Also, the URA has tried to market their vacant building. Staff believes that the URA could be much more successful in that marketing attempt if they also had dedicated parking that could be marketed as part of the deal. Perhaps the City could trade or dedicate this lot to the URA to help make their property more viable. A potential trade could be for the parking lots that the URA owns that serve the City's Senior Center building. We have discussed this idea with URA staff, but the URA board has not been approached yet.
6. Unpaved Cul-de-sac for Elaine Ave.: Elaine Ave. is a short street that runs east/west and dead ends at the vacant property behind the Sawtooth Surgery Center at the southwest corner of Washington and Falls. It appears that the City acquired the property to be built as a cul-de-sac at the end of the street, but that cul-de-sac has never been constructed. The College of Southern Idaho has acquired an interest in the vacant property that surrounds this undeveloped cul-de-sac. They have begun the zoning and development process to build student housing on the property. The Council could determine this property to be excess to our needs and transfer ownership to another tax supported government entity, like CSI. Staff has not discussed this option with CSI. We wanted to have the discussion with the Council first.

State code describes the process a City must follow to dispose of excess public property. The first step is for the Council to declare the property as excess to the City's needs and that they intend to dispose of the property. The Council shall then declare a minimum value for the property. Following these declarations, a public hearing must be held to allow input on the disposition of the property. After the public hearing, the Council can then direct staff to dispose of the property. If a property is to be sold, the sale must occur at a public auction and shall be sold to the highest bidder over the minimum declared value of the property. If there is no high bidder over the minimum value, the City can then negotiate a sale as the Council sees fit.

Staff is requesting that the Council begin the disposition process with at least some of the properties discussed above at tonight's meeting. Those properties are:

1. Canyon Rim Open Space Near Jump site: As mentioned above, the City has already entered into an exchange agreement for this property. The developer is ready to proceed with the exchange. Staff recommends that the Council initiate the exchange process on this property. The declared value of this property should be that the Council expects to receive 6.71 acres along the canyon rim and developed access to the City's gun range.
2. Southwest Corner of Heyburn and Washington: Staff has talked to several people interested in this property. Therefore, we recommend that the Council direct staff to sell this property at auction. In December 2004, the City paid \$6.98 per square foot for this property. Staff did not get an appraisal for the property. The Council could establish the minimum value of this property as \$6.98 per square foot, or \$82,612.

3. Northwest Corner of Grandview and Caswell: The neighbors to this property have expressed concerns that it remains vacant. Neighborhood kids play on the lot on their bikes and some parents are concerned due to its proximity to Grandview. Therefore, staff recommends that the Council direct staff to sell this property at auction so that someone else can have the opportunity to build on this lot. Staff did not get an appraisal for the property. In 2004, the City paid \$27,326 for the lot. The Council could set that amount as the minimum for the property.
4. 80+/- acres on South Washington: If the Council determines that this property is excess to our needs, it could also be sold at auction. Staff did not get an appraisal for the property. In 2003, the City acquired the 80+/- acres for \$395,636. Staff recommends that the Council determine whether or not to dispose of the property.
5. Parking Lot on 2<sup>nd</sup> Ave. South, Near Idaho St.: If the Council determines that a parking lot trade with the URA is appropriate, then staff recommends that the minimum declared value for this property be the parking lots that serve the Senior Center. If the URA board is not in favor of such a trade, the exchange process can simply be stopped.
6. Unpaved Cul-de-sac for Elaine Ave.: If the Council determines that this property is excess to our needs and that CSI could make better use of it, staff recommends that the Council direct us to begin this conversation with CSI to determine if they have an interest in the property.

#### **Budget Impact:**

There is no significant budget impact associated with the Council's approval of this request. There will be a small cost to notify the public hearings. Following the public hearings, the City will receive some revenue from the sale of the properties.

#### **Regulatory Impact:**

As discussed above, approval of this request will initiate the disposition process for the properties included in the Council's action. This is the first step in the process to be followed by public hearings.

#### **Conclusion:**

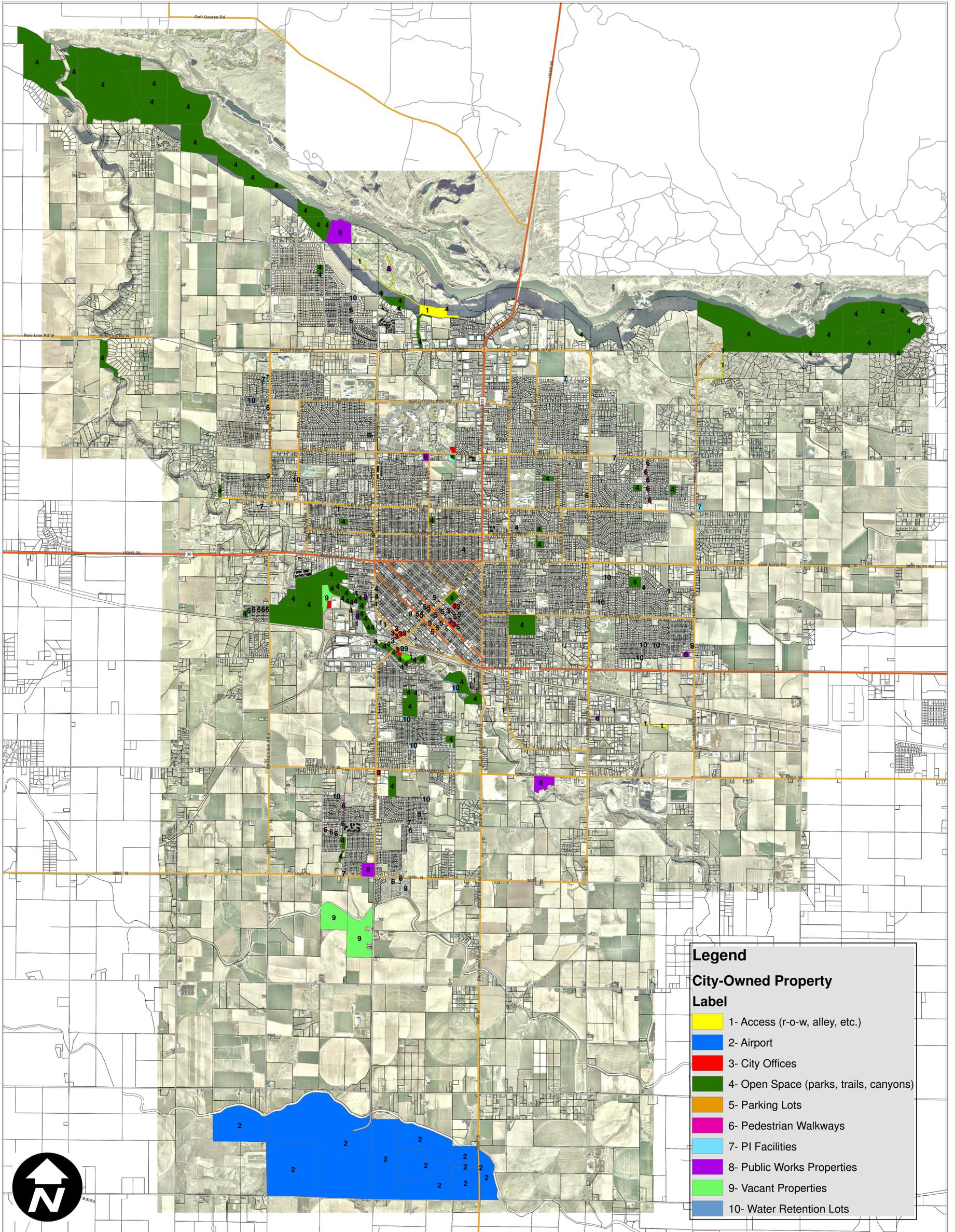
Staff recommends that the Council declare the following properties excess to City needs, their intent to dispose of the properties, and establish the minimum value of the properties as follows:

1. Canyon Rim Open Space Near Jump site: 6.71 acres along the canyon rim and developed access to the City's gun range
2. Southwest Corner of Heyburn and Washington: \$82,612
3. Northwest Corner of Grandview and Caswell: \$27,326
4. Other properties the Council wishes to include

#### **Attachments:**

City Ownership Map

# City of Twin Falls City-Owned Property





**Date:** Monday, September 12, 2011  
**To:** Honorable Mayor and City Council  
**From:** Mike Trabert P.E., Staff Engineer

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**Presentation:**

A presentation by Brockway Engineering, PLLC discussing the results of the Dye Tracer Study.

**Time Estimate:**

The staff presentation will take approximately 2 minutes.

Brockway Engineering's presentation will take approximately 15 -30 minutes.

Following the presentations, staff anticipates an additional 15 minutes of time for questions and answers.

**Background:**

In the 1990's the city developed a new well field at the head of the Blue Lakes complex. When the city began pumping the lower Blue Lakes the water level dropped. The city entered into an agreement to mitigate the lower Blue Lakes level and the flow in the stream next to the road. The city installed a weir and plastic liner to seal part of the bottom of the lake in attempt to control the lake level. This weir and liner did not solve all of the issues. It appeared that there may be more water leaving the bottom of the lake besides the orifice.

This summer a team of divers went back into the upper and lower Blue Lakes to determine if there was any other location where water may be exiting the lake. A fissure was discovered. Brockway Engineer decided to do a series of dye tracer tests to determine where the water was going and engineer a solution to help mitigate the lower lake level and stream flow.