

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, October 3, 2011
 City Council Chambers
 305 3rd Avenue East -Twin Falls, Idaho

5:00 P.M.

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

AGENDA ITEMS	Purpose	By:
I. CONSENT CALENDAR: 1. Consideration of accounts payable for September 27- October 3, 2011. 2. Consideration of the September 27, 2011, City Council Minutes. 3. Findings of Fact, Conclusions of Law, and Decision for the Final Plat, Crowley's Corner Subdivision c/o Twin Falls Holding Co. & JUB Engineers, Inc. 4. Consideration of a request to approve the 2011 Oktoberfest event sponsored by Downtown Alive and Scott McNealy and Tony Prater to be held on Saturday, October 8, 2011.	Action	Staff Report Sharon Bryan L. Sanchez Mitch Humble Dennis Pullin
II. ITEMS FOR CONSIDERATION: 1. Presentation by Jim O'Donnell, Air Show Chairman, on the planning for the Air Magic Valley, Blue Angels Air Show to be held on July 28 - 29, 2012. 2. Consideration of a request to accept approximately 161 acres of BLM property being transferred to the City through Congressional Conveyance. 3. Consideration of adoption of one ordinance regarding a request for the annexation of 35 (+/-) acres for property located at the southeast corner of Pole Line Road and Washington Street North, <u>c/o Gerald Martens/EHM Engineering Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership.</u> (app.2390) 4. Consideration of adoption of one ordinance regarding a request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, <u>c/o Gerald Martens/EHM Engineering, Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership, Lazy J Ranch-Linda Wills.</u> (app.2389) 5. Consideration of adoption of one ordinance regarding a request that the role of the Animal Shelter Advisory Commission be eliminated from a codified position. 6. Public input and/or items from the City Manager and City Council.	Presentation Action Action Action	Bill Carberry Lee Glaesemann Mitch Humble Mitch Humble Fritz Wonderlich
III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:		
IV. PUBLIC HEARINGS: 6:00 1. A public hearing to receive input on the City's intent to offer for sale approximately 0.27 acre of City owned property located at 287 Washington Street North. 2. A public hearing to receive input on the City's intent to exchange approximately 10.3 acres of City owned property located along the canyon rim, generally at the north end of Hankins Road North.	Public Hearing Public Hearing	Mitch Humble Mitch Humble
V. ADJOURNMENT:		

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

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.



BEFORE THE CITY COUNCIL OF THE CITY OF TWIN FALLS

In Re:)	
)	
<u>Final Plat</u> Application,)	FINDINGS OF FACT,
)	
<u>Crowley's Corner Subdivision</u>)	
<u>c/o Twin Falls Holding Co & JUB Engineers, Inc.</u>)	CONCLUSIONS OF LAW,
Applicant(s).)	
)	AND DECISION

This matter having come before the City Council of the City of Twin Falls, Idaho on September 12, 2011 for consideration of the final plat of the Crowley's Subdivision, approximately .88 (+/-) acres consisting of two (2) commercial lots located at the southwest corner of Pole Line Road East and Locust Street North, and the City Council having heard testimony from interested parties, having received written Findings from the Planning and Zoning Commission and being fully advised in the matter, now makes the following

FINDINGS OF FACT

1. Applicant has requested approval of the final plat of the Crowley's Subdivision, approximately .88 (+/-) acres consisting of two (2) commercial lots located at the southwest corner of Pole Line Road East and Locust Street North
2. The property in question is zoned C-1 PUD pursuant to the Zoning Ordinance of the City of Twin Falls. The property is designated as Commercial/Retail in the duly adopted Comprehensive Plan of the City of Twin Falls.
3. The existing neighboring land uses in the immediate area of this property are: to the north, Pole Line Road East/Magic Valley Mall; to the south, Residential; to the east, Locust Street North/The Home Depot; to the west, Lithia Auto Sales.

4. The City Engineering Office has reviewed the final plat and has approved the proposed street accesses and public utility extensions, subject to availability of such services at the time of development. The developer will pay all costs of public improvements, including but not limited to streets, curb gutter and sidewalks, sewer, water and pressurized irrigation systems. The proposed development includes dedication of additional right-of-way in compliance with the Master Street Plan.

Based on the foregoing Findings of Fact and the regulations and standards set forth below, the City Council hereby makes the following

CONCLUSIONS OF LAW

1. The final plat of the Crowley's Subdivision, approximately .88 (+/-) acres consisting of two (2) commercial lots located at the southwest corner of Pole Line Road East and Locust Street North is in conformance with the objectives of the zoning ordinance and the policy for developments in Twin Falls City Code §10-1-4. Specifically, the land can be used safely for building purposes without danger to health or peril from fire, flood or other menace, proper provision has been made for drainage, water sewerage and capital improvements including schools, parks, recreation facilities, transportation facilities and improvements, all existing and proposed public improvements conform to the Comprehensive Plan.

2. The final plat is in conformance with the Comprehensive Plan as required by Twin Falls City Code §10-12-2.3(H)(2)(a).

3. Public services are currently available to accommodate the proposed development, as required by Twin Falls City Code §10-12-2.3(H) (2) (b). Public services may not be available at the time of development, depending upon the speed of development of this and other subdivisions and the ability of the City to obtain additional water and/or sewer capacity.

4. The development of streets, sewer, water, irrigation, dedication of park land and other public improvements at the cost of the developer will not adversely affect any capital improvement plan and will integrate with existing public facilities, as required by Twin Falls City Code §10-12-2.3(H)(2)(c).

5. There is sufficient public financial capability of supporting services for the proposed development, as required by Twin Falls City Code §10-12-2.3(H)(2)(d).

6. There are no other health, safety or environmental problems associated with the proposed development that were brought to the City Council's attention, per Twin Falls City Code §10-12- 2.3(H)(2)(e).

7. The final plat is in conformance with the Preliminary Plat. Based on the foregoing Conclusions of Law, the Twin Falls City Council hereby enters the following

DECISION

The request for approval of the final plat of the Crowley's Subdivision, approximately .88 (+/-) acres consisting of two (2) commercial lots located at the southwest corner of Pole Line Road East and Locust Street North is hereby granted, subject to final technical review by the City Engineer's Office and subject to the conditions which are attached as "Exhibit No. A", and incorporated by reference as though fully set forth herein. The applicant shall comply with all applicable requirements of the Adopted Standard Drawings, the Zoning Ordinance, and the City Code of the City of Twin Falls.

MAYOR - TWIN FALLS CITY COUNCIL

DATE

"EXHIBIT NO. A"

1. Subject to site plan amendments as required Building, Engineering, Fire & Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to a cross-use agreement between Lot 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 & Sidewalk along the Locust Street North frontage.
4. Final Plat to be in conformance with the approved Preliminary Plat



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, October 3, 2011
To: Honorable Mayor and City Council
From: Staff Sergeant Dennis Pullin

Request:

Consideration of a request to approve the 2011 Oktoberfest event sponsored by Downtown Alive and Scott McNealy and Tony Prater. This Oktoberfest event is scheduled to be held Saturday, October 8, 2011, following the October 7, 2011, Oktoberfest event.

Time Estimate:

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

Background:

Bev O'Connor, on behalf of Downtown Alive, and Scott McNealy and Tony Prater submitted a Special Events Application to hold the second day of the Oktoberfest Celebration in the downtown area of Twin Falls. This event is scheduled to be held on Saturday, October 8, 2011, from 1:00 p.m. to 6:00 p.m. The event will be held on Main Avenue from Shoshone Street to the west side of the Magic Valley Bank. Main Avenue will be closed from 1:00 p.m. until 6:00 p.m. There will be a 0-K Run held on Main Avenue North/West in front of O'Dunken's as a fundraiser for the Friday Night Market event for the year of 2012. There will also be seven separate musicians playing music on the sidewalk in front of the Magic Valley Bank. These musicians will be providing music individually, playing for approximately 30 minutes each. The street closure will be for the 0-K Run and to provide an area for spectators to listen to the music.

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 Shoshone Street North to aid in preventing pedestrians from entering traffic lanes on Shoshone Street North.

There will be no alcohol served for the event. For those consuming alcohol, it will be purchased from local businesses in the area who are licensed to serve alcohol under the guidelines of their alcohol license.

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. Port-a-potties will be provided.

"People Serving People"

Agenda Item for October 3, 2011
From Staff Sergeant Dennis Pullin
Page Two

The required certificate of liability insurance, with the City of Twin Falls as the certificate holder, will be provided.

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



October 3, 2011 City Council Meeting

To: Honorable Mayor and City Council

From: Bill Carberry, Airport Manager

Request:

Presentation by Jim O'Donnell, Air Show Chairman, on the planning for the Air Magic Valley, Blue Angels air show July 28 & 29, 2012.

Time Request:

The presentation will be approximately 10 minutes with additional time for questions.

Background:

Mr. Jim O'Donnell, an Airport Board member, has stepped up to take on the chairmanship of the air show committee. His appointment was approved by the Airport Board in early 2011. He is in the process of developing a solid start to the air show planning for the 2012 Blue Angels air show and has a strong team of individuals that have volunteered to assist with the air show.

Mr. O'Donnell would like to brief the City Council on the progress that has been made and answer any questions.

Budget Impact:

Mr. O'Donnell has prepared a preliminary budget, and anticipates that the show will be funded by sponsorships, donations, gate receipts and concession fees. Mr. O'Donnell has also worked with the committee to set a preliminary structure for expenditure approvals and controls.

Regulatory Impact:

The airport will work with the agencies governing airport operations (FAA) and security (TSA) in preparation for the air show.

Conclusion:

The planning lead time for the 2012 air show is longer than the last event in 2008 due to the fact the Blue Angels are now working on a two year planning schedule. Mr. O'Donnell and the air show volunteers are developing a thorough and well structured plan for the next air show. I would encourage members of the Council to take this opportunity to ask questions and provide comments regarding planning for the air show.



Date: Monday, October 3, 2011
To: Honorable Mayor and City Council
From: Lee Glaesemann, Staff Engineer

Request:

Consideration by the Council to accept approximately 161 acres of BLM property being transferred to the City through Congressional Conveyance.

Time Estimate:

The staff presentation will take approximately 5 minutes.
Mike Courtney of the BLM will speak for 2-3 minutes.
Staff anticipates additional time for Q&A.

Background:

In 2002, the City of Twin Falls purchased about 520 acres of private land known as Auger Falls located west of the City's treatment plant, in the Snake River Canyon. The purchase was composed of 4 separate parcels of land interspersed along a nearly 3.5 mile stretch of the river.

Mixed among the City's parcels were several BLM parcels and a few privately owned parcels with little or no fences or obvious boundaries between them. This mix of properties has caused some difficulties in the development and management of the City's Auger Falls Park.

The BLM properties had several of the same issues as the City's parcels. They were part of a patchwork of properties that were difficult to easily identify, access, and manage.

To help alleviate these issues, the City worked with Congressman Mike Simpson, along with Idaho's other representatives in Washington DC, to acquire the BLM property within the Auger Falls area.

Beginning in 2007, Congressman Mike Simpson introduced a House Resolution to convey the BLM properties to the City of Twin Falls. Similarly, Senator Crapo (for himself and Senator Larry Craig) introduced a Senate Bill to transfer the properties to the City of Twin Falls. Eventually, these bills were incorporated into bills passed by U.S. House and Senate and signed by the President of the United States as Public Law 111-11 in 2009.

The Bureau of Land Management, with the assistance of the City of Twin Falls, has performed the work necessary to transfer the properties to the City and is ready to transfer it at this time.

With the addition of the BLM property, the Auger Falls Heritage Park will be increased to about 680 acres with about 3.3 miles of Snake River frontage.

Approval Process:

This is a Congressional conveyance of BLM property to the City of Twin Falls, approved by the President.

Budget Impact:

As may be included in the City's future budgeting process for management, development, and maintenance of the Auger Falls Heritage Park.

Regulatory Impact:

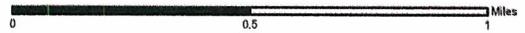
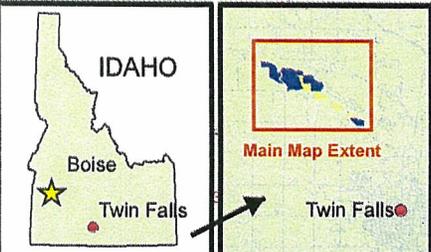
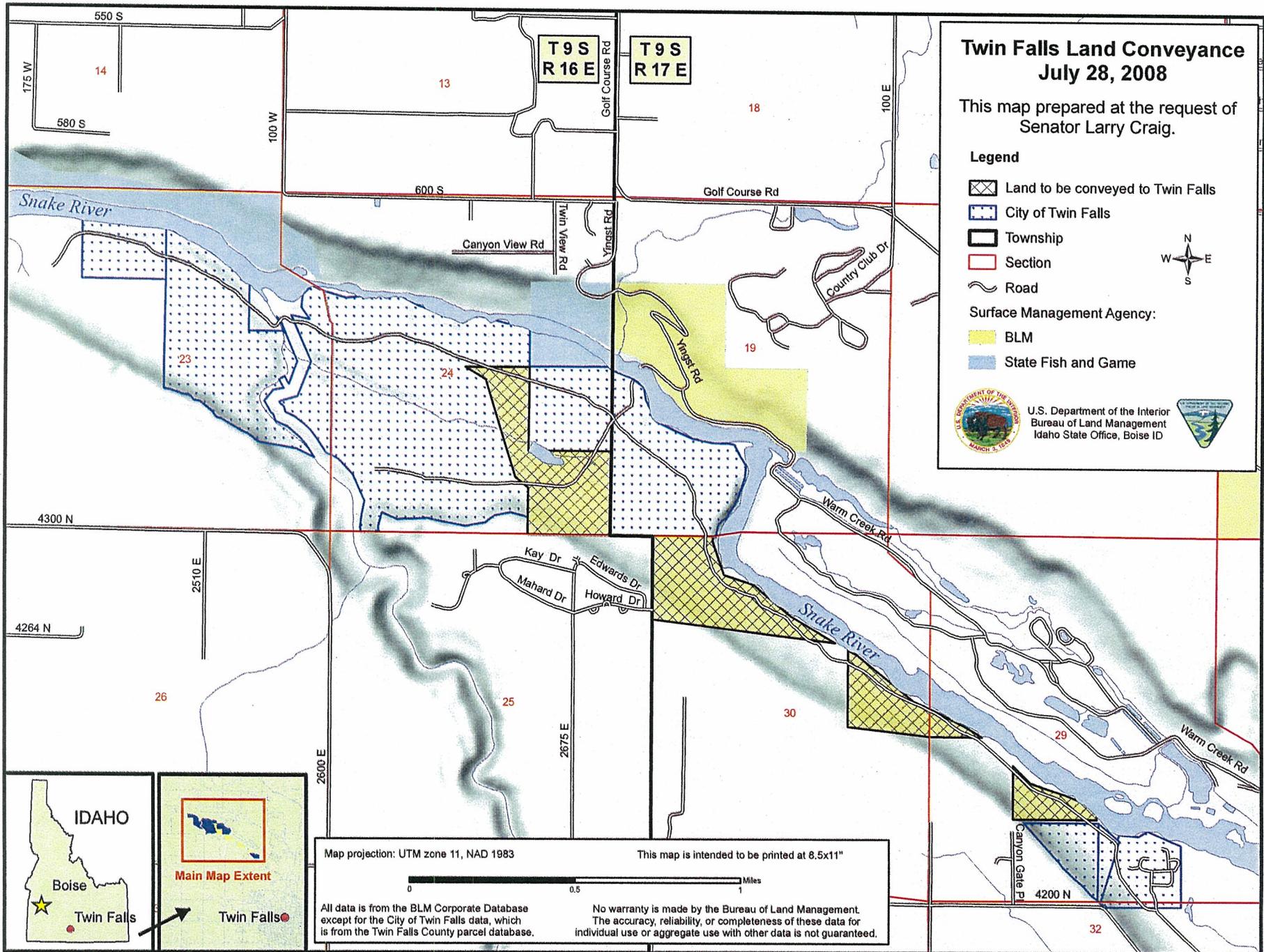
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Conclusion:

Staff recommends that the Council accept the conveyance of the BLM property to the City of Twin Falls.

Attachments:

1. Auger Falls Map
2. Section 2607 of the Omnibus Public Lands Management Act of 2009, P.L. 111-1
3. Preliminary copies of property deed and patent.



SEC. 2607. TWIN FALLS, IDAHO, LAND CONVEYANCE.

(a) **CONVEYANCE.**—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey to the city of Twin Falls, Idaho, subject to valid existing rights, without consideration, all right, title, and interest of the United States in and to the 4 parcels of land described in subsection (b).

(b) **LAND DESCRIPTION.**—The 4 parcels of land to be conveyed under subsection (a) are the approximately 165 acres of land in Twin Falls County, Idaho, that are identified as “Land to be conveyed to Twin Falls” on the map titled “Twin Falls Land Conveyance” and dated July 28, 2008.

(c) **MAP ON FILE.**—A map depicting the land described in subsection (b) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) **USE OF CONVEYED LANDS.**—

(1) **PURPOSE.**—The land conveyed under this section shall be used to support the public purposes of the Auger Falls Project, including a limited agricultural exemption to allow for water quality and wildlife habitat improvements.

(2) **RESTRICTION.**—The land conveyed under this section shall not be used for residential or commercial purposes, except for the limited agricultural exemption described in paragraph (1).

(3) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Interior may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(e) **REVERSION.**—If the land conveyed under this section is no longer used in accordance with subsection (d)—

(1) the land shall, at the discretion of the Secretary based on his determination of the best interests of the United States, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States and if the Secretary determines that the land is environmentally contaminated, the city of Twin Falls, Idaho, or any other person responsible for the contamination shall remediate the contamination.

(f) **ADMINISTRATIVE COSTS.**—The Secretary shall require that the city of Twin Falls, Idaho, pay all survey costs and other administrative costs necessary for the preparation and completion of any patents of and transfer of title to property under this section.

IDI 36914 02

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That the **UNITED STATES OF AMERICA**, by virtue of the Omnibus Public Land Management Act of 2009 (123 Stat. 1123) does hereby remise, release, and forever **QUITCLAIM** unto the City of Twin Falls, whose physical address is 321 Second Avenue East, Twin Falls, Idaho, 83301, and to its assigns, all right, title, and interest in the following described real property, situated in the County of Twin Falls, State of Idaho, to wit:

Boise Meridian, Idaho

T. 9 S., R. 17 E.,

Section 29, that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying south of the Snake River

Section 30, that portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ lying south of the Snake River

Containing approximately 41 acres

ALSO, TOGETHER WITH ALL AND SINGULAR the tenements, hereditaments, and appurtenances there unto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said surface rights and subsurface rights together with the appurtenances, unto the City of Twin Falls, and to its assigns, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES a right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945)

SUBJECT TO:

1. This property is subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, (100 Stat. 1670). The patentee, its successors or assigns, by accepting a patent,

Quitclaim No. **ID-2011-000**

PRELIMINARY

agrees to indemnify, defend, and hold harmless the United States, its officers, agents, representatives, and employees (hereinafter "United States") from any costs, damages, claims, causes of action in connection with the patentee's use, occupancy, or operations on the patented real property. This agreement includes, but is not limited to, acts or omissions of the patentee and its employees, agents, contractors, lessees, or any third party arising out of, or in connection with, the patentee's use, occupancy, or operations on the patented real property which cause or give rise to, in whole or in part: (1) Violations of Federal, state, and local laws and regulations that are now, or may in the future become, applicable to the real property and/or applicable to the use, occupancy, and/or operations thereon; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), pollutant(s), or contaminants(s), and/or petroleum product(s) or derivative(s) of a petroleum product, as defined by Federal or state environmental laws; of, on, into, or under land, property, and other interests of the United States; (5) other activities by which solid or hazardous substance(s) or waste(s), pollutant(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state environmental laws are generated, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to the said solid or hazardous substance(s) or waste(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state laws; or (6) natural resource damages as defined by Federal and state law. Patentee shall stipulate that it will be solely responsible for compliance with all applicable Federal, state, and local environmental laws and regulatory provisions, throughout the life of the facility, including any closure and/or post-closure requirements that may be imposed with respect to any physical plant and or facility upon the real property under any Federal, state, or local environmental laws or regulatory provisions. This covenant shall be construed as running with patented real property and may be enforced by the United States in a court of competent jurisdiction.

2. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620(h)) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, (100 Stat. 1670), notice is hereby given that the above-described parcel has been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property.
3. Those rights for transmission line purposes granted by the State of Idaho, Department of Reclamation to Idaho Power Company while these Carey Act lands were under the jurisdiction of the State of Idaho. This right-of-way, IDI 34518, affects that portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ lying south of the Snake River, in Section 29, T. 9 S., R. 17 E., Boise Meridian.

- 4. Those rights for road purposes granted to Rock Creek Joint Venture, its successors or assigns, by right-of-way no. IDI 20094, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).
- 5. Those rights for road purposes granted to BP Hydro Associates, its successors or assigns, by right-of-way no. IDI 32372, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

The lands listed above shall be used to support the public purposes of the Auger Falls Project, including a limited agricultural exemption to allow for water quality and wildlife habitat improvements. The lands shall not be used for residential or commercial purposes. Title shall revert to the United States, at the discretion of the Secretary of the Interior based on his determination of the best interests of the United States, upon a finding that the lands have been devoted to a use other than the Auger Falls Project. If the Secretary chooses to have the land revert to the United States and if the Secretary determines that the land is environmentally contaminated, the City of Twin Falls, or any person responsible for the contamination shall remediate the contamination before the lands revert to the United States

IN WITNESS WHEREOF, The United States of America has executed this document as of this XXXXXXXX day of XXXXXXXXXXXX, 2011.

UNITED STATES OF AMERICA

By _____
 David H. Murphy
 Chief, Branch of Lands, Minerals and Water Rights
 Resource Services Division

Quitclaim No. **ID-2011-000**

STATE OF IDAHO)
) s.s.
COUNTY OF ADA)

On this XXXXXXXX day of XXXXXXXX, 2011 personally appeared before me, David H. Murphy, whose identity is personally known to me and who, being duly sworn, did say that he is the Chief, Branch of Lands, Minerals and Water Rights, Resource Services Division, Bureau of Land Management, Idaho State Office, and that he executed the foregoing instrument by authority of and in behalf of the United States of America; and he acknowledged said instrument to be the act and deed of the United States of America.

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

Notary Public in and for the State of Idaho
Residing at Boise, Idaho
My commission expires:

The United States of America
To all to whom these presents shall come, Greeting:

IDI-36914 01

WHEREAS

City of Twin Falls

is entitled to a land patent pursuant to Omnibus Public Land Management Act of 2009, (123 Stat. 1123), for the following described lands:

Boise Meridian, Idaho
T. 9 S., R. 16 E.,
Section 24, Lots 5, 6, and 13

T. 9 S., R. 17 E.,
Section 30, Lots 10, 11, and 12

Containing 120.4 acres

PRELIMINARY

NOW KNOW YE, that there is, therefore, granted by the **UNITED STATES**, unto the City of Twin Falls, the land above described; **TO HAVE AND TO HOLD** the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the City of Twin Falls, and to its successors and assigns, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).
2. The right to itself, its permittees or licensees, to enter upon, occupy, and use, any part or all of the land for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 USC 818) as to lot 13 of section 24, T. 9 S., R. 16 E., Boise Meridian and lots 10, 11, and 12 of section 30, T. 9 S., R. 17 E., Boise Meridian (IDI 15630, Secretarial Order Interpretation No.13 of Power Site Reserve 565).
3. The right to itself, its permittees or licensees, to enter upon, occupy, and use, any part or all of the land for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 USC 818) as to lots 5 and 6 of section 24, T. 9 S., R. 16 E., Boise Meridian (IDI 15798, USGS Order 07/26/1948 Withdrawal Power Site Classification 390).

4. The right to itself, its permittees or licensees, to enter upon, occupy, and use, any part or all of the land for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, as amended (16 USC 818) as to lots 5, 6, and 13 of section 24, T. 9 S., R. 16 E., Boise Meridian (IDI 26589, FERC Power Project Withdrawal 6015).

SUBJECT TO:

1. Those rights for road purposes granted to Rock Creek Joint Venture, its successors or assigns, by Right-of-Way No. IDI-20094, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) as to lots 5 and 6 of section 24, T. 9 S., R. 16 E., Boise Meridian, and lots 10 and 12 of section 30, T. 9 S., R. 17 E., B.M.
2. Those rights for road purposes granted to BP Hydro Associates, its successors or assigns, by Right-of-Way No. IDI-32372, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761) as to lots 5 and 6 of section 24, T. 9 S., R. 16 E., Boise Meridian, and lots 10 and 12 of section 30, T. 9 S., R. 17 E., B.M.
3. This property is subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, (100 Stat. 1670). The patentee, its successors or assigns, by accepting a patent, agrees to indemnify, defend, and hold harmless the United States, its officers, agents, representatives, and employees (hereinafter "United States") from any costs, damages, claims, causes of action in connection with the patentee's use, occupancy, or operations on the patented real property. This agreement includes, but is not limited to, acts or omissions of the patentee and its employees, agents, contractors, lessees, or any third party arising out of, or in connection with, the patentee's use, occupancy, or operations on the patented real property which cause or give rise to, in whole or in part: (1) Violations of Federal, state, and local laws and regulations that are now, or may in the future become, applicable to the real property and/or applicable to the use, occupancy, and/or operations thereon; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), pollutant(s), or contaminants(s), and/or petroleum product(s) or derivative(s) of a petroleum product, as defined by Federal or state environmental laws; of, on, into, or under land, property, and other interests of the United States; (5) other activities by which solid or hazardous substance(s) or waste(s), pollutant(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state environmental laws are generated, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to the said solid or hazardous substance(s) or

waste(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or state laws; or (6) natural resource damages as defined by Federal and state law. Patentee shall stipulate that it will be solely responsible for compliance with all applicable Federal, state, and local environmental laws and regulatory provisions, throughout the life of the facility, including any closure and/or post-closure requirements that may be imposed with respect to any physical plant and or facility upon the real property under any Federal, state, or local environmental laws or regulatory provisions. This covenant shall be construed as running with patented real property and may be enforced by the United States in a court of competent jurisdiction.

4. Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620(h)) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, (100 Stat. 1670), notice is hereby given that the above-described parcel has been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property.

The lands listed above shall be used to support the public purposes of the Auger Falls Project, including a limited agricultural exemption to allow for water quality and wildlife habitat improvements. The lands shall not be used for residential or commercial purposes. Title shall revert to the United States, at the discretion of the Secretary of the Interior based on his determination of the best interests of the United States, upon a finding that the lands have been devoted to a use other than the Auger Falls Project. If the Secretary chooses to have the land revert to the United States and if the Secretary determines that the land is environmentally contaminated, the City of Twin Falls, or any person responsible for the contamination shall remediate the contamination before the lands revert to the United States.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Boise, Idaho, the XXXXXX day of XXXXXXXX in the year of our Lord two thousand and XXXXXXXX and of the Independence of the United States the two hundred and THIRTY-XXXXXX.

By _____
 David H. Murphy
 Chief, Branch of Lands, Minerals, Water Rights
 Resource Services Division



DATE: MONDAY -- OCTOBER 03, 2011

To: Honorable Mayor and City Council

From: Mitch Humble, Community Development Director

AGENDA ITEM II-

Request:

Consideration of adoption of one (1) ordinance(s) regarding a request for the annexation of a 35 (+/-) acres for property located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc. on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership. (app.2390) **Ordinance #** _____

Time Estimate:

Staff presentation may be approximately five (5) minutes.

Approval Process:

As per TF City Code: 10-15-2(C) & (D)

(C) The Council, prior to adoption, amendment or repeal of the plan or Zoning Ordinance, shall conduct at least one public hearing using the same notice and hearing procedures as the Commission. Following the hearing of the Council, if the Council makes a material change in the plan or zone, further notice and hearing shall be provided before the Council adopts the plan or zone.

(D) Concurrently or immediately following the adoption of an ordinance of annexation, the Council shall amend the planning and zoning regulations as shall be found to be necessary. (Ord. 2012, 7-6-1981)

In the event the Council shall approve an amendment, such amendment shall thereafter be made a part of this Title upon the preparation and passage of an ordinance. (Ord. 2012, 7-6-1981)

Idaho State Statute §50-222(5)a(iv)

Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section 67-6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, the initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included in such annexation proposal not less than twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the proposed annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one (1) page summary of the contents of the city's proposed annexation plan and shall provide information regarding where the annexation plan may be obtained without charge by any property owner whose property would be subject to the annexation proposal.

Budget Impact:

Approval of this request will not impact the City budget.

Regulatory Impact:

The Council's adoption of the ordinance(s) will allow the code to be amended as approved.

History:

On October 25, 2010 the City Council unanimously approved a request for the annexation of a 35 (+/-) acres for property located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc. on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership. (app.2390) subject to the following conditions:

1. Subject to amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City Code requirements and Standards.
2. Subject to arterial and collector streets adjacent within the property being rebuilt or built to current City standards upon development of the property.
3. Subject to this property being included in and approved as part of the Sun West C-1 Business Park PUD.

Analysis:

The ordinance has been prepared as directed by the Council and is recommended for adoption as submitted.

Conclusion:

Staff recommends that the Council adopt the attached ordinance as submitted.

Attachments:

1. DRAFT Ordinance
2. Portion of the October 25, 2010 City Council minutes

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, ANNEXING CERTAIN REAL PROPERTY BELOW DESCRIBED, PROVIDING THE ZONING CLASSIFICATION THEREFOR, AND ORDERING THE NECESSARY AREA OF IMPACT AND ZONING DISTRICTS MAP AMENDMENT.

WHEREAS, **BCM&W, KLS&M, AND CANYON VISTA FAMILY LIMITED PARTNERSHIP, C/O LAZY J RANCH AND LINDA WILLS** has made application for annexation of property located at the southeast corner of Pole Line Road and Washington Street North; and,

WHEREAS, the City Planning and Zoning Commission for the City of Twin Falls, Idaho, held a Public Hearing as required by law on the 28th day of September, 2010, to consider the Zoning Designation and necessary Area of Impact and Zoning Districts Map amendment upon annexation of the real property below described; and,

WHEREAS, the City Planning and Zoning Commission has made recommendations known to the City Council for Twin Falls, Idaho; and,

WHEREAS, the City Council for the City of Twin Falls, Idaho, held a Public Hearing as required by law on the 25th day of October, 2010, to consider the Zoning Designation and necessary Area of Impact and Zoning Districts Map amendment upon annexation of the real property below described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

SECTION 1. The following described real property be and the same is hereby annexed into and declared to be a part of the City of Twin Falls, Idaho:

SEE ATTACHMENT "A"

AND all public streets, highways, alleys and public rights-of-way adjacent and within this description.

SECTION 2. The real property described in Section 1 hereof be and the same is hereby zoned R-4.

SECTION 3. Public services may not be available at the time of development of this property, depending upon the speed of development of this and other developments, and the ability of the City to obtain additional water and/or sewer capacity. The annexation of this property shall not constitute a commitment by the City to provide water and/or wastewater services.

SECTION 4. The Area of Impact and Zoning Districts Map for the City of Twin Falls, Idaho, be and the same is hereby amended to reflect the newly incorporated real property as hereby zoned.

SECTION 5. The City Clerk shall, within ten (10) days following the passage and publication of this Ordinance, certify copies of the same and file said certified copies with the county auditor, treasurer, assessor, and the Idaho state tax commission. The City Clerk shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of the City as altered, to be recorded with the county recorder and filed with the county assessor and with the state tax commission within thirty (30) days following the effective date but no later than the tenth day of January of the year following.

PASSED BY THE CITY COUNCIL October 25, 2010

SIGNED BY THE MAYOR , 20____

Mayor

ATTEST:

Deputy City Clerk

PUBLISH: (must be published within one month of passage)

FILED: (must be filed within 10 days of publication per Section 5 above)

LEGAL DESCRIPTION AND MAP: (must be filed within 30 days of publication, but no later than January 10 of the year following, per Section 5 above)

ANNEXATION FOR BCM&W, KLS&M, AND CANYON VISTA

A parcel of land located in Government Lot 4 and a portion of Government Lot 3 in Section 4, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho; being more particularly described as follows:

Commencing at the North quarter corner of said Section 4. Thence South $89^{\circ}54'58''$ West 1320.00 feet (shown of record to be South $89^{\circ}48'41''$ West 1320.00 feet) along the North boundary of Section 4 to the Northwest corner of that parcel of land described as Area 1 – Parcel 1 of City of Twin Falls Annexation Ordinance 2510 Instrument No. 1996001945 Twin Falls County Records, and being the REAL POINT OF BEGINNING.

Thence along the Westerly boundary of said Area 1 – Parcel 1 as follows:

South $32^{\circ}56'36''$ West 263.99 feet (shown of record to be South $32^{\circ}50'19''$ West 263.99 feet)

South $25^{\circ}30'32''$ East 314.48 feet (shown of record to be South $25^{\circ}36'49''$ East 314.48 feet)

South $00^{\circ}55'17''$ West 754.43 feet (shown of record to be South $00^{\circ}49'00''$ West 757.00 feet) to a point on the Southerly boundary of Government Lot 3 of said Section 4.

Thence North $89^{\circ}38'17''$ West 1319.05 feet along the Southerly boundary of Government Lots 3 and 4 to the Southwest corner of said Government Lot 4.

Thence North $00^{\circ}50'26''$ East 1249.57 feet along the Westerly boundary of Section 4 to the Northwest corner thereof.

Thence North $89^{\circ}54'58''$ East 1320.95 feet along the Northerly boundary of Section 4 to the REAL POINT OF BEGINNING.

Containing approximately 37.21 acres.

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
October 25, 2010
City Council Chambers
305 3rd Avenue East Twin Falls, Idaho

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.

AGENDA ITEMS		Purpose	By:
CONSENT CALENDAR: 1. Consideration of accounts payable for October 19 – 25, 2010. 2. Consideration of the October 18, 2010, Minutes. 3. Consideration of an Alcohol License Application: Business Name: Jawdat Mansour DBA Kwik Mart, Business address: 120 Ramage Street for Beer. Bottled for consumption off the premises only and Wine: Retail Sales for consumption off premises only. 4. Consideration to accept the following agreements: a. Deferral agreement for curb, gutter and sidewalk on property located at 1487 Falls Avenue West c/o Carol Peluso. b. Deferral agreement for curb, gutter and sidewalk on property located at 797 Eastland Drive South c/o J.R. Simplot Company. c. Deferral Agreement for curb, gutter and sidewalk on property located at 3228 Highlawn Drive c/o Jay Bride and Julie A. Ellis. d. Deferral agreement for curb, gutter and sidewalk on property located at 762 All Street c/o Jeff Miller. e. Deferral agreement for sidewalk improvements on property located at 441 Madrona Street North c/o Rosanna L. Jones. f. Deferral agreement for the construction of the required maneuvering and parking area surfacing located in the alley way behind 560 Main Avenue South c/o Dean and Ginny Kulm.		Action	Report Sharon Bryan Leila Sanchez Troy Vitek
II. ITEMS FOR CONSIDERATION: 1. Consideration of a request by the Magic and North Snake Ground Water Districts to lease up to 1 cfs of our Pristine Springs water right for a period of 5 to 20 years. 2. Consider of Resolution No. 2993 establishing the local limits of 10 pollutants for the Wastewater Treatment Plant. 3. Consideration of adoption of the following two ordinances: a. Request for a Zoning District Change and Zoning Map Amendment from R-2 and R-4 PRO PUD for 20 (+/-) acres for the development of a mixed use professional office and residential development on property located between the 1300-1450 blocks of Field Stream Way and Creekside Way, c/o Doug Vollmer on behalf of W.S.&V., LLC. (app 2386) b. Request for a Zoning District Change and Zoning Map Amendment from R-2 to R-2 PRO for property located at 510 Lincoln Street, c/o 200 South Developers, LLC/Fran Florence. (app.2383) 4. Consideration of a 3 rd one-year extension of the final plat of the Desert Falls Subdivision, 58.36 (+/-) acres with 45 single family residential lots located at the southeast corner of 3300 East Road and Falls Avenue East, c/o Rod Mathis/Riedesel Engineering on behalf of FRS,LLC/Doug Strand. 5. Public input and/or items from the City Manager and City Council.		Action Action Action Action	Candice M. McHugh/ Tom Courtney Jon Caton Mitch Humble Mitch Humble
ADVISORY BOARD REPORTS/ANNOUNCEMENTS:			
IV. PUBLIC HEARINGS: 6:00 P.M. – 1. Request for the annexation of a 35 (+/-) acres for property located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc. on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership. (app.2390) 2. Request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering, Inc., on behalf of BCM& W, KLS&M,, and Canyon Vista Family Limited Partnership, Lazy J. Ranch – Linda Wells. (app.2389) TABELED RESCHEDULED FOR FEB 7, 2011 CC PH		Action Action	Mitch Humble Mitch Humble
V. ADJOURNMENT:			

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

Present: Don Hall, Lee Heider, David E. Johnson, Gregory Lanting, William Kezele
Absent: Lance Clow, Trip Craig,
Staff Present: City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Public Works Director Jon Caton, City Engineer Jackie Fields, Community Development Director Mitch Humble, Deputy City Clerk/Recording Secretary Leila A. Sanchez.

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of accounts payable for October 19 – 25, 2010; total: 565,906.44; FY-2009/2010 September, total: \$75,801.02; October 19, 2010, total: \$2,857.70
2. Consideration of the October 18, 2010, Minutes.
3. Consideration of an Alcohol License Application: Business Name: Jawdat Mansour DBA Kwik Mart, Business address: 120 Ramage Street for Beer: Bottled for consumption off the premises only and Wine: Retail Sales for consumption off premises only.
4. Consideration to accept the following agreements:
 - a. Deferral agreement for curb, gutter and sidewalk on property located at 1487 Falls Avenue West c/o Carol Peluso.
 - b. Deferral agreement for curb, gutter and sidewalk on property located at 797 Eastland Drive South c/o J.R. Simplot Company.
 - c. Deferral Agreement for curb, gutter and sidewalk on property located at 3228 Highlawn Drive c/o Jay Jay Bride and Julie A. Ellis.
 - d. Deferral agreement for curb, gutter and sidewalk on property located at 762 All Street c/o Jeff Miller.
 - e. Deferral agreement for sidewalk improvements on property located at 441 Madrona Street North c/o Rosanna L. Jones.
 - f. Deferral agreement for the construction of the required maneuvering and parking area surfacing located in the alley way behind 560 Main Avenue South c/o Dean and Ginny Kulm.

MOTION:

Councilperson Lanting made the motion to approve the Consent Calendar as presented. The motion was seconded by Councilperson Heider and roll call vote showed all members present voted in favor of the motion. Approved 5 to 0.

IV. PUBLIC HEARINGS: 6:00 P.M. –

1. Request for the annexation of a 35 (+/-) acres for property located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc. on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership. (app.2390)

Gerald Martens, EHM Engineers, representing the applicant reviewed the request.

The request went before the Planning & Zoning Commission several weeks ago and they had several issues and concerns that came out of that meeting. I don't believe any of them had specifically to do with this annexation. They were questions to the development, timing and schedule being proposed in the PUD request. There are no immediate plans to develop this property. There is *no user in wings* standing by ready to buy the property and waiting to develop it. There are two reasons why we are doing it now. Washington Street and Pole Line have been completed or substantially completed, the accesses have been identified, however, Cheney Street development is now looming in the very near future. This is a CSI and City of Twin Falls sponsored project. Cheney is on the south boundary of this property and is a key component of the development of this property. Before we move forward with any right of way dedication, which is a platting process, normally dedicated through the platting process, obviously we have to get annexed and zoned. So that is specifically the reason for this request. The master plan which is being represented as part of the PUD incorporates both this property and Lazy J mobile home park as phase two of the development, but I don't believe the master plan needs to be part of the request for annexation and zoning. The request on this specific hearing is to have C-1 PUD zoning for the property to be incorporated into a larger PUD that includes the entire 70 acres. The other parcel to the east of the Lazy J mobile home park is already annexed.

Community Development Director Humble reviewed the request.

The two hearings are about similar properties. This annexation does not include the current mobile home park. It only includes the vacant property adjacent to Washington Street. The next request is a request to zone both of these properties together, about 70 acres combined. This hearing is strictly whether or not to annex the vacant property. I want to make that clear because my understanding of the proceeding at the Planning & Zoning Commission meeting concerns and questions seemed to be about the development related to the plan unit development which is the next request, not this request. The current zoning on the property is R-4 designation. We are annexing what is not yet annexed. It is contiguous on all four sides and is eligible for annexation. The request is simply is to annex it and leave the zoning as R-4. The next item is whether to include it in a PUD or not. On this issue of the annexation, the Planning & Zoning Commission recommended on September 28, 2010, that should City Council decide to annex the property retain the current R-4 with two conditions. The two conditions are 1) subject to amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City Code requirements and Standards, and 2) subject to arterial and collector streets adjacent or within the property being built or rebuilt to current City standards upon development of the property. Staff would recommend having one more condition because we understand where the applicant wants to go with this and if the second request of the PUD is not approved then the applicant does not want to proceed with the annexation. One more condition, staff recommendation is subject to this property being included in and approved as part of the Sun West C-1 Business Park PUD. This is important for us because the future land use plan for this property calls this property out as commercial. So R-4 is actually not an appropriate designation for this property. We can support this annexation as R-4 with this condition that it later be zoned a C-1 because that complies with the future land use plan.

Discussion followed:

Vice Mayor Heider asked Community Development Director Humble if we are approving this annexation contingent upon the approval of rezoning, which will be the next public hearing item. Community Development Director Humble answered in the affirmative and stated that the annexation would be withdrawn if the later PUD request were denied.

The public hearing was opened and closed with no input.

Deliberations: None.

MOTION:

Councilperson Lanting made the motion to approve the **annexation of a 35 (+/-) acres** for property located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc. on behalf of BCM&W, KLS&M, and Canyon Vista Limited Partnership. (app.2390), as presented, with the following conditions:

1. Subject to amendments as required by building, engineering, fire, and zoning officials to ensure compliance with all applicable City Code requirements and Standards.
2. Subject to arterial and collector streets adjacent within the property being rebuilt or built to current City standards upon development of the property.
3. Subject to this property being included in and approved as part of the Sun West C-1 Business Park PUD.

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

2. Request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering, Inc., on behalf of BCM& W, KLS&M,, and Canyon Vista Family Limited Partnership, Lazy J. Ranch – Linda Wills. (app.2389) **TABELED RESCHEDULED FOR FEB 7, 2011 CC PH**

Gerald Martens, EHM Engineers, representing the applicant reviewed the request.

We are requesting a PUD Business Park zoning to develop the entire piece of property that now has been conditionally annexed to the City, and the approval of the PUD agreement subject to final language negotiation with staff. There were five issues that came up by the neighbors at the Planning & Zoning Commission meeting. The first issue that came up was a concern about building height. The original height of the PUD asked for heights in excessive of the zoning ordinance. Heights have been typically approved in the area with a Special Use Permit We have withdrawn or modified the PUD draft to eliminate that. The height of any building is 35' unless additional height is allowed. The second concern is sign language. Signage will meet all sign ordinances. In early discussions with the CSI, pylon signs would be located in a manner on interior streets, Washington Street, Harrison Street, or Pole Line Road. There was significant testimony about interior streets, primarily the road that has been changed and developed. Cheney Street and how it will impact Lazy J mobile home park is out of the hands of this development. We anticipate that Cheney Street will be built before any development is made at the Lazy J mobile home park. At this point and time the alignment for Cheney Drive has not been finalized. The last and biggest issue at the hearing was the impact to the Lazy J mobile home park. The mobile home park has been included in the PUD for several reasons. We are required by the City to master plan all the contiguous property. The exact location on the master plan is not defined. As discussed at length at the Planning & Zoning Commission meeting, this property will be developed from west to east. There is one mobile home dead center in the roadway. In the PUD agreement it states (Nothing to preclude the owner from continued operation of the existing Lazy J-mobile home park in part or in its entirety until the time the owner or the owner's successor elect to begin redevelopment of the area in conformance with PUD. Redevelopment of the Lazy J-mobile home park area the property owner shall require City Council approval for an amended PUD & Master Development Plan.) That would include additional submittals to the City. What would eventually end up before this group is: a revised plan, an amendment to the PUD agreement, how it was developed, how it will be developed in phases, what would happen to mobile homes, and when that would happen. The PUD agreement is a contractual agreement between the City and the developer. I would like to go into more detail for the obvious reasons. We are in favor of this project now that we are officially required to present a plan for all property, secondly economic reality. The taxes on this property went up 600% two years ago, the vacancy is at 23%, there are 35 vacant spaces, there are two homes that moved in the last eight years. It is a good operation and the owners very much appreciate their tenants and would like to continue operating it as a mobile home park as long as possible.

In closing, I would like to emphasize there is currently no plan for this property. It is part of a long time planning process. We do know it is a cooperative effort and we will be back to Council with a final plat, amended PUD agreement, and a master plan.

Discussion:

Councilperson Heider asked if the crook in the road (Cheney Drive), as shown on the overhead project, is a two lane road with a turn lane.

Gerald Martens

The crook is to add an additional lane to enter into the accesses and secondly to get it up lined up to Washington. This is a four lane road, two lanes each way and a turn lane on the north. This probably will be two lanes on the south when CSI develops an intro plan. Again CSI and the City have seen this design several times in the planning process, but it is not necessarily the design that will come out in the planning process.

Councilperson Kezele

If the proposal is a vision for the future, and as far as the mobile home park is concerned, are there any plans to cause any change to in the lives of the people who are in the mobile home park currently, and if that does come forth, it will come forth for another vote from the Council that is not being proposed in what you are proposing today.

Gerald Martens

This was correct. There will be no change in the land use but none of these roads such as this road going through will happen until we come back. We are not going to be building a road in the middle of it, we are not going to be building Harrison or the Harrison connection until we are back to see you again in the platting process and the revised master plan. You will see that in the second plat of the second master plan.

Councilperson Kezele

For clarification there is a road going through the middle of the lot and where there is one home?

Gerald Martens

There is one home that will need to be relocated to another space if that is what the owner necessitated. That is a decision beyond us. ITD with a long negotiations constructed the accesses and turn lanes in the middle of the property. That approach cannot move.

Mayor Hall

Obviously the concern for most of the folks here, is that this is their home. A lot of them have lived there a long time and have a substantial investment in their home. But do you have any sense of the development of this location and of a timeline for the citizens concerned?

Gerald Martens

I can only answer that based upon my experience of what has happened. To move forward from both the privy of this PUD, the next step would be moving forward with the platting. This property is not developable without Cheney Drive being in place because it is a key element. I believe it is at least two, three, or four years for construction. There are 35 acres to develop. The 35 acres at the north fork on the north side of the road has been a similar project and has been 15 years in development. The property to the west where Walmart is located has been 7 to 8 years now. I think that optimistically it will take 10 years to build up the 35 acres to necessitate a significant demand of commercial property in this community. The real purpose is it have a master plan is to move forward with the CSI and then we can move forward with the planning of the property. The marketing of the property is seven years at the soonest.

Community Development Humble

For the record that there is a requirement for zoning cases where the property owner needs to notify property owners within 300'. There is at least one property owner that did not get that letter, but that property owner is in attendance tonight.

This request is for the planning of a 70 acre planning unit development with a C-1 base zoning district. The future land use plan request this exact zoning for this property. The zoning conforms with the master land use plan. The phasing of the development is anticipated to be in two phases. With a PUD you need to have an approved master development plan. You can see that on the right half that all the mobile homes are in place. There is language in the document that says the homes are going to be there and have to be there and cannot be developed until we go through this process again. Other concerns that came up at the Planning & Zoning Commission meeting is height. That language now says this property will develop under the C-1 regulations for height. The original request had conflicts with terminology that was used in the City sign code versus what was put in the PUD. The changes have been removed. The PUD language now says developed per chapter 9 of the code, which basically refers to the sign code with the two exceptions; if there are signs along Cheney they have to be

monument style signs with a maximum height of 10', that's a more restrictive sign regulation that we currently have in our code. Then the signs that would comply with code which would need to be along Washington or Pole Line. There is one inclusion in the PUD that is probably noteworthy. In the commercial zone retail uses in our zoning ordinance have the hours of operation limit where they can be opened from 7:00 a.m. to 10:00 p.m. You can get extended hours through the Special Use Permit process. This PUD has an inclusion that removes all hour restrictions from all uses. That is different from what we normally see and that is why it is worth pointing out. The Planning & Zoning Commission did not have a problem with that. This was heard by the Planning & Zoning Commission on September 28, 2010, there were several concerns at that time. Gerald Martens has addressed some of those concerns. One of the concerns had to do with Cheney Drive in some of the construction of the arterials and collectors that are adjacent to this property. That is what the code reads and what we require of people. The adjacent arterials on Pole Line has pretty well been developed. Washington has been pretty well developed or will be shortly. So we are talking about collectors here. Cheney is a required to be a collector, Harrison is a ½ mile collector. So they show these two streets on there primarily because City Code requires them to build them when they develop. The City cannot require them to build a street for us prior to development. They can if they chose to build it prior to development. This master development plan conforms with our street master plan. So it shows Cheney in a rough alignment like our street master plan shows Cheney. It shows the ½ mile collector in that location it needs to be. That's all this plan is good for showing general locations. This plan isn't going to tell you that this can't shift up or down 30', it can. Those things will be determined when development occurs. This alignment of the little connection from Harrison across to Cheney might look a little different when it's finally built. It will roughly be something like that. Obviously this requires cooperation with another property owner that could influence how this all looks in the end. So we might see small tweaks, but generally the alignment of the collectors shown here is what rules. So there is a concern at the Planning & Zoning Commission meeting, that potentially that the traffic on Cheney might overpower or be more than the two lane could handle. When this develops in phases again, the first phase being on the left side when it develops, they will build their half unless they already done it sooner. When the other half develops at some point they have to build their half unless it hasn't been done already. The applicant tonight indicated that they do not have plans to do that in which would impact these homes in the corner. They would prefer to let it go with the south side being built and they would do the north side when they develop. That is all we can require. The Planning & Zoning Commission on September 28, did not recommend approval. The motion was to approve the request in which it failed 2 to 3. So there is no recommendation for approval coming to you from the Commission tonight. If the Council would like to grant this request, staff recommends the following conditions be added to the approval:

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 dedicated to the City of Twin Falls to be built or rebuilt to current City standards upon development of the property.
3. Subject to the City Council approval of annexation of the western 35 acres of the property, included in this request. The City Council has approved the annexation and would need to adopt an ordinance.
4. Subject to recordation of a PUD agreement prior to development.

With those conditions staff does support this request.

Discussion followed:

Councilperson Kezele

When the request went before the Planning & Zoning Commission did it have all these recommendations?

Community Development Director Humble

The applicant has changed as a result of the Planning & Zoning Commission hearing, changed their height restriction just to be what the City Code said about height. They changed the sign language to conform to City Code. They added more language to clearly define the phasing. When or how can we develop the right side of the property or the east side of the property.

Open the public hearing for the item:

Rich Carpenter, 450 Pole line Road, #96

First of all I'd like to thank EHM for passing out notices to every resident in the park. In the Planning & Zoning Commission situation we didn't have that kind of notice and we were a little behind the eight ball, so to speak, when we got involved in this. That helped a lot that every resident knew about the meeting tonight. I'm her to speak for several residents at Lazy J and for myself and I will reiterate of what I spoke about when I spoke at the Planning & Zoning Commission but I won't go into the detail I went into. In July 15, there was a letter that came out to all the residents from the owners and the letter stated, 1. A plan unit development was in the works and had been motivated by a road, Cheney Drive essentially, and CSI. It also said it would be a complicated, which it is. and also said there were no

immediate plans to close the park which I believe and that Lazy J has been a vital part of their family for over 40 years and they want to continue as long as possible. Very positive statements really and the letter was something the residents needed to know when we got it. It did create some problems and it didn't take long for the problems to surface. All kinds of anxiety, all kinds of questions, all kinds of apprehension, all kinds of rumors. The concern basically was over the future. What am I going to do? What's going to happen to me? Lazy J is a senior park. We are all seniors. We don't have an opportunity to go back to work to start building a future. Our future is this park. So that is a lot of concern. Part of the apprehension was there aren't many parks from here; I am talking about a 40 mile radius that can take the homes at Lazy J. There is just too many of them. There may be one park out in Kimberly that can take maybe 25 or 30 mobile homes at the most. It also created a situation immediately where the value of the homes plummeted. Everybody knows someday Lazy J will be gone. Nobody is going to buy, nobody is going to come in there and buy a mobile home. My guess just in talking to some of the residents is that mobile homes probably dropped to the point where they are only 25% of their value so if a mobile home is worth \$20,000, boom, they have lost 75% of it. Rumors, this came from all over that management says this, the county says this, the city says this, and the neighbors say these things like it will be 10 years, it will be 5 years, and it will be 15 years. This happened in July and nobody knew what was going on and to be prepared for. With everything that happened when that letter came out really created a lack of clarity. It really created a lot of anger among some residents. Nothing serious from a standpoint of being mean or anything like that. It just created anger that this is happening to me and shouldn't happen. Lazy J is the best maintained mobile home park in this area with a (+/-) 40 mile radius. I've looked about just everything from Glens Ferry to Kimberly to Hansen to Murtaugh and everything else and this is the best one. It is beautiful, it well taken care of. There are a couple of reasons for that, the management has a good set of rules, the residents make efforts to follow those rules and maintain the park. It is the pride of the both parties, the management and the residents. In this park if you don't zone it C-1 it will continue to be an asset to the City. There is no doubt about that. The residents that live there have invested a majority of their savings in their mobile homes and improvements of their mobile homes and that type of thing. The letter when it came out and the decision to request the change, think, not the letter has a created a loss of site related to the impact of the seniors. Many of these people have been there a long time some for 35 plus years, some of them are in their 80's and some are in their 90's and it's quite a thing for everyone of us to have something like this to have it happen. The decision has also put a burden on the Lazy J residents. Essentially they are in a bind. They can't sell their mobile homes and can't move them very easily. There aren't any places to move them for one thing, and for the second thing the moving costs are astronomical as far as we're concerned. If you have to move a mobile home, a single wide, \$9,000 to \$15,000 to get it to a brand new location. There aren't any locations, there's a few but not very many. So there is a limit where the seniors can go. I want to reiterate that it can be life threatening to a lot of these people. They got into these mobile homes and into the Lazy J mobile home park. Somebody mentioned "change" a little ago and asked the question, I think it was Will, I'm not sure but I think he is the one that asked the question. He said if there would be any change, and the answer was no, but the answer is there has been a major change. You can't say there's not going to be any change. It could be 15 years out, 20 years out or tomorrow or dead, from the standpoint of selling the mobile home or moving the mobile home. Some of the comments from the residents and these are quotes: "I can't sell my mobile home, I can't afford to move my mobile home, it's a 1973 mobile home, if I could afford to move it nobody would buy it, if they rezone, I'm zoned right out of my home." If you look at Lazy J requirements a lot of parks have them. The age of your mobile home has to be 10 years or less. They have to inspect that mobile home and everything before you can move in. Those are good requirements, don't get me wrong, but many other mobile home parks have that requirement. People aren't going to be able to get in with their mobile homes if they're old. This is an interesting comment from a gentlemen that I met on Saturday, "People in the Cities all over are making noises related to green space, high crime rates, and taking care of their seniors". Lazy J is green, really green. It is a green space. There is not a way to get around it. It almost has an unmentionable crime rate. I don't know what the crime rate is but it has to be low. It already provides an excellent place for seniors to live." That is something to keep in mind because if Lazy J disappears, some of the items I mentioned, could end up costing the city some money after it is over with. Higher crime rates, a place to put the seniors and somebody's is going to want a green space someplace. Some of the words we are hearing, this is from a lady, "I hear words like maybe, probably, could be, if, and unlikely". They're no comfort; they're no assurance for people who live there. It doesn't matter because the major damage is already done. It's going to get worse if it is zoned C-1. In the Times News today I saw a couple of quotes based on what I heard tonight I think they are pretty accurate. It's just a scary thought to have somebody say things might not happen for another decade because we don't know, we just don't know. Another thing that was in the paper that there is a proposed detailed phasing plan for the mobile home park. I'm not sure, I've learned a little more tonight, I have learned a lot more tonight, but I wouldn't call it a detailed phasing plan, especially with mobile homes in the back part of the park, mobile home along Harrison, mobile homes along that new road that's there. When some of those roads are put in, if they are put in before Lazy J is developed, there are several people, I figured out there's about 20 to 25 mobile homes that are going to be impacted. Not just necessarily having to be moved but they are going to be impacted by the closeness of the roads and a lot of other things. I think the road issue really needs to be reviewed and make sure everybody gets that road right if it's zoned and we are going to put all those roads in. In closing, I am going to make some requests to the City Council. One is to have the request to have this zoned commercial be denied, and if not, that the City Council make no decision tonight. Take your time, deliberate and schedule more public hearings. I think too that all the City Council members need to take time, I'm not saying you haven't, to drive through Lazy J mobile home park, stop and talk to the residents if you get an opportunity, knock on their door, they don't mind talking to you. They didn't mind talking to me when I started walking around getting signatures and I don't think they wouldn't mind talking to any one of you. Also, before any rezoning takes place some serious consideration has to be taken if you're going to zone it C-1 for the seniors that are there. The other request is that the City,

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CSI, the developers, the owners, they set up and contribute to a fund when this happens, and I am not talking 5 years from now, 10 years from now. If this gets zoned C-1 it should start immediately building up some fund because they are going to need it, they are going to need it really bad. I think my last question that has been answered, so if there are any questions for me.

Jim Schouten, 229 Tyler Street

I am a member of the Planning & Zoning Commission and I was against this at the first vote and now that they reworded it and changed things around it to make it adequate to what are expectations were, and to hold onto the trailer park to where they got to come back for a PUD to change anything there and go further with the residents and being able to talk to them. I am changing my mind to be more in favor of this project. The only thing that I have an issue with still is Cheney Drive. You got the hospital going in at on one end of Cheney Drive; you got the school for the hospital at the other end of Cheney Drive. There is going to be a lot of traffic in the near future once that's developed. That be the biggest consideration I have with that. You guys just approved tonight another 20 acres out at Cheney Drive, a little bit further for Doug Vollmer. That's going to impact what happens on Cheney Drive. There's going to be a lot of future progress on Cheney Drive that will be impacted and need to be looked at in the platting process to make sure we got the traffic adequate to go through that area and sustain what we are going to end up in the future with the college that's there. Other than that, I am in favor of this.

Della Mattice, 1828 Bridgeview Estates

I use to live at Lazy J. My address now is 1828 Bridgeview Estates. I moved in July to Bridgeview Estates because of our age. My husband is 93 and I am 87. In July we got a letter from the manager telling us about this project and she told me at the end of the letter your house will be first to go because I'm facing Pole Line. I have up my house for sale now and I had to reduce the price twice and I put in \$13,000 in order to get a good price and now I am now going to let it go for \$9,000 and nobody's going to buy it. It's all I got say. I want to know what's going to happen to my house. I am still paying \$400 rent there. Plus that all I'm interested in what is going happen to my house, they say it's the first to go.

Glen Spencer, 450 Pole Line Road, Space #11

I appreciate all the things I have heard here tonight and it is a little clearer in my mind. I guess the concern that I have is they try to give us a time and they say, well it won't happen for 10 years. Well if it's zoned C-1 there is not going to be anymore homes going into that park. There probably is not going to be anyway because of what's going on. The idea that we have just lost the value of our home is a concerning thing. But most of us in the park, I am probably one of the younger ones in that park and I'm 67 years old. and I feel like in 10 years the owners of the park are going to have a real problem over there because they are going to have about a 70% vacancy rate and no way to collect enough rent for them to make any money and they're going to be anxious to sell this property. I don't blame them for that; I would do the same thing or at least be concerned about that. I feel like I am one of the people who don't feel that we have ten years in any way, shape and form. I feel that if we get 5 we will be lucky. Thank you.

Debbi Roberts, 450 Pole Line, Space #139

I live next to Della. We are out there at the end of the cul-de-sac. We are on the northwest side. This gentleman here was talking about building heights. Building height is a very big concern but so are the hours these businesses can run. It is 24 hours. I am concerned about the lighting and what about the setback of Cheney Road from the property line. I mean, I feel like they are going to be right in my backyard, I am going to have to move my shed. That's after Della's is taken out. The next home that is going to come out is Leila's. She is a very sick woman and she doesn't have the finances to move, she doesn't have the finances to go to a retirement place, what is she going to do? We need to look at it a little bit better. The people that are on the south side, I am afraid they're going to be wiped out with this Cheney Road. I don't understand that why in the future the cross one has to go in. Why can't it just go to Cheney and take a left or a right. Why does it have to go through the park? We need to keep the park. We just lost all the value. We did and it's disheartening and that's what I'd like to say. Thank you.

Verna Jean Carrico, 450 Pole Line Raod, Space #105

I have lived there for 19 years. I was born and raised in Gooding. In 1991 my husband Don and I moved to Twin Falls to be closer to our son Rick and our doctors. Don passed away in 2006. At this time, I have my house up for sale due to health concerns and have had some people shown interest in buying it, but with the possibility of turning the park into a business complex, it's hard for anyone to commit to buying a home when they might they have to get out in the next few years. The people in the park are all senior citizens and many of them have health concerns. When we moved here it was with a feeling we would be able to live here for the rest of our lives. Now it seems that our future is of no concern to the ones involved in making this a commercial development. I think it is fine to make the business development in the area west of the park, but I can see no reason why the residents of Lazy J be routed out of their homes. There has been no solution suggested as to any reimbursement or relocation of the houses and it will certainly put a burden on the seniors citizens involved. Go ahead and make the west section of Washington Street commercial but please leave Lazy J as a residential park. Thank you.

Katie Breckenridge, Box 685, Picabo, Idaho

I wouldn't want to sit in your shoes. This is an emotional gut ripper to listen to these people. I have been their neighbor longer than they than they have been there. My grandpa came in 1906. I remember when the Williams, Linda was my good friend, we galloped our horses up and down Pole Line Road, we played pony express we did all sorts of thing that if I spoke about them tonight you won't approve of it because of Linda and what she did. However, having said that, it's interesting that it is changed now. When the Williams chose to put in the trailer park we were farming beside them and as more people moved into the trailer park it created conflict between farming the residence. Now the residents finds themselves caught between what the next the development phase is going to be. My key interest tonight is not to address that, but my key interest is to address the way that Harrison Street forms into Cheney. Rob and I would have been here earlier however we are the ones that weren't notified and we did not know about it, and there would be absolutely no way that we would roll a stone in front of this process so we said we will just go forward, but I wished we would have had these comments for you earlier. My concern again is how Harrison Street hooks into Cheney and the reason that I am concerned about that is on the white side of that is where the Breckenridge Endowment Farm is. That is the 30 acres that was gifted by my parents to be a farm in the middle of a city. If you take the curve that is presently showing there you will cut into the farm and you will also cut into through the wetlands. My suggestion to be would be to move the sweep of where it is connected, move it farther that direction, which would be to the west, and then you alleviate the small two triangles of where there is dead space. You are also on the other side of the coulee, and there is a national barrier there already. So I would ask that Harrison Street be on the developer, if they choose to do that, and but you leave Harrison Street, the connection into Cheney, move it a little bit farther. Does that make sense to you without pointing? That's what I would suggest. Again, in closing, I would say, if there's any way that the City can make it possible for the Williams family to continue to own this piece of property through tax reductions, bonuses, anything that you can use your imagination with, so there it is worthwhile to the Williams to maintain the property and that as a mobile home and would allow the mobile home people to stay there. I think that could be possible to be a win win for everybody. But as private property person and someone that owns land there has to be an incentive, some type of incentive for the Williams to stay rather than in the predicament that they are in now. So I would ask that you would look into that form. I have no idea what that would look like, it might take some real imagination, you have great planners, but I think perhaps a win win can come up in some manner. Again I have tremendous empathy here and I totally understand there. Thank you for your time.

Margrette Cook, 450 Pole Line Road, Space #76

As I look at this plat my house is going to be done away with again. I moved here from Orem, Utah, because 800 North in Orem, Utah, went right through my living room. I don't know what the name of the road that is going in; it's not Cheney, what is the name of the one up above? (Gerald Martens stated Sun West). I realize it's going to be 10, 15 years supposedly, maybe, we don't know. My concern is what happens to those people who live there? Where do they go? We've been told that if you have to move your house you have 180 days to go. That's one thing I have concern about. I have concern about what Twin Falls City have in their plans or their things for senior citizens. I know you have senior housing that you have put in other places, but why not ban together and purchase a piece of property that can be used here that where people are living independently and not having to live in a very small place. I have a double wide. Now interesting enough, my double wide has been for sale for 2 years last August, 2 years, and this came out in July What do you think it did to the value? Right down the tubes. I have been offered \$10,000 for my home. I am not going to take it; I am not going to take it. It disgusts me, I'm concerned about it, I think we need to do something more than what we're doing. Think about seniors. I'm sorry. I am one of the younger ones so, thank you.

Marion Cook, 450 Pole Line Road, Space #76

Since my wife spoke first, I don't have too much to say. But I do have a genuine concern. Now she mentioned that they put a highway through our home in Utah, and we were compensated for it. I have not heard anybody talk about compensation, just compensation, at all. This needs to be addressed. If they take my home it is right in line with that upper road there, If they take it and they don't give me just compensation they may have to remove me with it, then I'm going to have to find out what compensation I do, I have to keep it, because it's very unlikely that we are going to sell it. It's all about what I have to say.

Carter Killinger, 21390 Highway 30

I own and operate the Highway 30 Garage. My father use to live in Lazy J and at the time, we'll get to that in just a moment. Rezoning is not in the best interest of the resident's at Lazy J. They are taxed even though they are renting the rent pays taxes; they are taxpayers of the City of Twin Falls direct and indirectly. There's a saying that the one with the gold makes the rules. I am begging for social justice and respect for our elderly. I request that any zoning request to rezone Lazy J Mobile Home Park be adamantly denied. Many or most of the Lazy J residents bought their mobile homes in good faith with a reasonable expectation that they could live out the rest of their lives at Lazy J. The regional and perhaps subsequent owners are bound by present zoning. Consider when the Just-A-Mere Inn was bought and the aged were displaced. I don't know if many of you know where Just-the Mere Inn is. It's right across from the courthouse. It's a nice looking building and there was a bunch of old folks there, they were kicked out so the attorneys could have office space right across the courthouse. As the Times News reported it was traumatic for the old folks to be uprooted and have to move from their homes for the convenience of the attorneys. Consider the residents of the Blue Lakes mobile home park who in good faith rented space to park their trailers and their mobile homes only to be evicted because of a rich man wanting to sell the property to enhance his riches. The evictions

in these caused residents great financial loss and distress resulting in some trailers being abandoned onsite and towed away. I towed some of the mobile homes away. If Lazy J is rezoned commercial and developed that resulted in the eviction of Lazy J residents, would you call that against public interest, persecution or discrimination of the elderly? Perhaps even sacrilege if you have respect for the elderly. Remember, the elderly were once young, great pioneers that founded and developed our great nation. If you have little respect for our elderly perhaps you would support euthanasia. It would cause great distress to the residents and cause a great financial loss and unsettling emotionally. It's unlikely that most can find a place to move their homes to. I know that if you had a bunch of those for sale if they consider them worth \$30,000 to \$40,000 now, you might not even get \$1,500, because there is no place for all those mobile homes. My opinion, if Lazy J is rezoned all the people that it facilitated the rezoning would all have dirty hands. Keep your hands clean. I beg of you do not rezone Lazy J.

Rebuttal:

Gerald Martens

Value, it was brought up by numerous other people impacting the value of their property. The value, certainly I don't doubt, has been impacted somewhat, but I think that impact is by nature of the fact that their location is in property that the comprehensive plan calls for commercial and it's somewhat related to the economic conditions and the marketing and the options for housing today, as we said earlier, really has been to move in. That was a very popular style of housing for many years for the '70's, '80's and into '90's. This was going from up to 151 units in the very beginning, it's now going in the other direction and the economics are forcing some of these decisions along with the zoning and the taxes that come because it is zoned commercial. It's a commercial activity. The questions regarding the street, the street that is drawn through the center of the property is not a specific line. It just shows we made have a connection across there someday to ultimately to develop that property. We cannot get any access from off of Pole Line so we had to illustrate the access to the property, but that will not be developed until we come back with an updated master plan, and phasing plan and a plat and that would be at a later phase. None of that construction will take place until we come back with a phase II master plan. I think that this phase II master plan and the pud amendment that we alluded to that we tried to put into this agreement to alleviate a lot of the concerns will address many of things that came up. I would like to talk about Katie's comments on being created. Certainly some of this property because of its location in the back, in the back corner, is not really desirable commercial property. Its secondary commercial or high density residential property I think is more comparable to residential property that's benefitted the college. I do like her suggestions that to bring something that we could work with the City, CSI and the landlord to try to find a means to do that. I think that will be a significant part in the future alignment. I would expect the relocation and use of property and phasing will be an important part of that. Finally, the Williams family is very proud of the Lazy J. I think we heard comments on how the nice place it is and the way that's it's landscaped. It is the Williams intent to run a mobile home part as long it is economically viable to do so. We have to come back with new PUD's and how we are going to develop it in the future. But I think that the residences should take some heart that this is the legacy of the Williamson family. They are not to harm anyone, they are not out to kick anybody out of their home, they are looking for a way to make this transition. Once it was a farm then it was a mobile home park and someday will be something else and if we can work here and finds a way how we can accomplish that. That is what we are trying to do by putting the language in the PUD agreement.

Mayor Hall

The hours and the lighting and those kind of issues with the 35 acres that could be developed while the trailer park is still there.

Community Development Director Humble

In straight commercial zoning without a PUD retail operations have hours of operation restrictions from 7:00 a.m. to 10:00 p.m. There is an inclusion in the PUD that says hours of operation, none. Basically there are no restrictions of hours of operation. That only applies to retail uses in the code, so non retail uses like an office park; for example, don't have those same limitations even though those uses are permitted in the C-1 zone, so really it only applies just to retailers. They're proposing to remove the hours of operation restriction. That is part of the request, and that is up to you to decide whether or not to approve it, I guess. There is a question about setbacks. So along the streets and I'll say this internal street here because it's separating the residential from the non residential. There is a requirement in the PUD that says that these streets need to have a 15' landscape buffer from the roadway, so at least they will be 15' back, so likely you'll have parking and drive aisles as well. As for lighting there is statement in the PUD that all exterior lighting has to be in the soffits or shielded from adjacent residential properties. So those are the inclusions of the PUD for those 3 specific questions that you asked.

Mayor Hall

So there are some landscaping buffers between the two areas, along the street, and lighting softening mechanisms.

Community Development Director Humble

In the soffits, the soffits are the overhang so the soffits are recessed up there so they basically shine down or if they are not in the soffits they are shielded so there pointing inward or downward not flooding the adjacent properties.

Mayor Hall

The roadway that goes through, why?

Gerald Martens

We are not proposing that until phase II. There would have to be a roadway at that point and time. Not necessarily exactly along that line but you can't put any driveways from Pole Line, it is control access, so we need the ability to access that property that fronts on Pole Line from the backside. You need some type of roadway through there. Again that will be in phase II, and it will have significant landscaping requirements, setback requirements, and certainly as part of the phase II planning, we will address its impact on any residual remaining or relocated homes that might exist at that time. At this point and time there are no specifics. It has to get from the center street over to Harrison Street. That is a transportation corridor system. Thank you.

Mayor Hall

There were several questions or concerns relocating trailers if there is some sort of a plan or a master plan. Mitch do you have anything that we have discussed regarding that?

Community Development Director Humble

As far as the relocation package or program or incentive, we, the city does not have anything creative in place to handle that. Where these are owner occupied units from ground that is leased from the owner that might be a more appropriate question to ask the property owner or Gerald. We certainly don't have any programs in place to assist the relocation of mobile homes. I would maybe add that some of the statements heard that there were not very many places to move mobile home to that is totally absolutely correct. In the city, I can speak for the City; we don't not have a place to move 160 homes to. So more than likely we are moving them somewhere out of the City.

Gerald Martens

I would expect this Council or any Council would expect the relocation plan to be part of the phase II. The modifications will come before you. In anticipation for that I would also expect that in the next in how many years when we ready to talk about phase II that any movement of trailers there would be an attempt to consolidate units in a specific area. Even in that 35 acres will be developed in phases that will allow further time for which the mobile homes to be either consolidated into a permanent area or to be relocated outside of the park. As I noted earlier that southeast corner of this property because of the canal and the lack of exposure is not high end commercial property. It would be better served as an apartment project area or something that would be as commercial. All of which is the latter a C-1 PUD zoning. Again it is part of a long process and specific to your question I would expect the relocation plan be part of that discussion when we come back to see. Thank you.

Dixie Siegel, 2030 Candlewood Circle

I am here as a friend, a fellow parishioner of some of the member here, and also as a vote. I will tell you I know a little bit about this. I had heard from my minister's wife actually about it in July and when I saw the docket tonight I thought I wanted to come and find out what was going on. In listening to everybody this is a heart wrenching situation. I can see both sides, but I would say to the City Council and to the owners also, I think that Katie has a real good point, and what I don't really understand, and I am not a guru on zoning problems, it sounds to me as if that the owners are going to have to come back in many times to present new plans, to have upgrades, and phase II's, I don't really understand why we couldn't keep the residential zoning plan R-4 in place until we actually have somebody to buy this land. I understand the City has a long range plan, but I also know I've lived in this town over 35 year and my parents were in similar situation and their home was torn down, where I grew up, in Pueblo, and my parents were too ill and they had to move before that happened. I know that the people in the neighborhood were compensated for their homes fully. I don't know how this was done and I don't have all of the specifics but I do know that the prospect of that came over to the clients to my parents helped. I would say to you Council members as a voter and as a friend to keep them living in the area to keep them in mind that this does impact people. Thank you for the opportunity to speak, I am a new comer to this but I would say to the property owners and to the Council, can't we get to some compromise here to prevent the least harm. Thank you.

Mayor Hall

I would agree with the idea of least harm and all those things but there might be some difference here. The property that homes are on are owned by someone else. It does throw a different kind of a spin on this situation. Why don't we keep it R-4?

Community Development Director Humble

I think there was another person who asked why we don't keep the zoning in place. I can answer from the City perspective but the applicant may want come up and tell you why they are asking for this at this time. The R-4 zone doesn't allow a mobile home park. So the mobile home park is currently called legal non-conforming, in layman's term, a grandfather use. So moving it from R-4 to C-1 doesn't offer any more or less protection of the current existing zone. You can take it or leave it from the City's standpoint, R-4 or C-1 doesn't really matter. Why they are asking for it now that's for them to answer.

Mayor Hall

If I can reiterate that it's non-conforming the way the property is now, so going to C-1 changes really nothing for the property that the folks in the mobile home park itself. Gerald would you like to address that?

Gerald Martens

There are three reasons: We are required to by ordinance that we need to master plan all of our property. At the point we are entering negotiations with the City, CSI relative to dedication donation of right of ways and we wish to reserve all right of way issues in at least one document whether it happens now or 20 years from now. We need entitlements and need to know where we stand on roadways towards Harrison and the connection to Harrison. Again, we know this is symbolic but the next step and with final negotiations, it might move around a little bit 30' one way or another to minimize impact and still provide the necessary accesses and services. Probably the most important part in the next period of time, 10 years or whatever it takes to develop the white property, to market that property, the potential property owners want to know what is around them and the current zoning. I think it is good planning to let the owners know and what's it going to be. It will affect the value of both sides of the line, but I think that to do a good job planning the property for a short term or long term uses, we would like to have the PUD agreement, and offer language that provide as much protection as we can provide and we are willing to continue discussion on that language if it helps, but we do and are requesting that we do get the PUD agreement approved for the entire property with whatever conditions are necessary. Thank you.

Councilperson Kezele

I understand that the master plan and the PUD process requires you to come and present the plan as it is but you said that Council has the authority to do otherwise. My question than would be would the owner's of the property consider leaving the mobile park zoned exactly how it is and only moving to a C-1 zone of the white space?

Gerald Martens

I guess it would depend upon on what else was in the PUD document relative to right of ways, roadways and other issues about which are of concern. If the PUD document, I do know that the underlying zoning, is important as the ultimate use of the property and the entitlements for the property, but I guess that would involve some serious redrafting of the PUD agreement, or insertion of additional stuff in the PUD document. Part of what would happen tonight in exchange for right of way is for entitlements. I think that we should be able to get to the same allowed use on a extended period whether it's zoning or just by the language in the document. It's a non-conforming use anyway; it's an allowed use in the C-1.

Councilperson Johnson

The first question, I have Mitch, is what is the comprehensive plan? I heard it tonight but I want to hear it again, and what did it anticipate this property would be zoned as?

Community Development Director Humble

The entire 70 acres are designated as retail and commercial in the comp plan. The request complies with the comp plan.

Councilperson Johnson

What is a legal zoning for a mobile home park?

Community Development Director Humble

In our code we have a mobile home overlay district that can be placed in an R-6 zone and that would be an appropriate zoning for a mobile home park. The R-4 zone is not allowed and the C-1 is technically not allowed. The PUD language that you have basically has a statement in there that extends the non-conforming status in the C-1 zone.

Councilperson Johnson

Whether it's C-1 or whether it's R-4 it's going to be non-conforming.

Community Development Director Humble

It will be non-conforming no matter what you do tonight unless what you did was zone R-6 with a mobile home overlay, which we can't do because we did not notify it that way and it doesn't comply with the future land use plan.

Councilperson Lanting

The comp plan, for which you are referring to, is the latest one or is the one from 10 years ago?

Community Development Director Humble

It is from our current comprehensive plan. I believe the previous one did not change, but I would have to double check that.

Councilperson Lanting

There has been talk about compensation and allowances and getting creative and all of these types of things and we've been created a few times before in PUD's, with both Planning & Zoning Commission and with us. Can a PUD that is approved and negotiated by the City include compensation?

Community Development Director Humble

Required compensation by the City or the private developer?

Councilperson Lanting

By the developer.

City Attorney Wonderlich

No.

Vice Mayor Heider

First of all I would like to make an observation that it is neither the City nor the City Council that is making this request. It is a citizen within our community that's the applicant that is requesting a zoning change for their property. They own the property and they have every right to make that application by virtue of the law. Fritz, if we rezoned this all C-1 can we place a timeline, a 10 year timeline or something of that development in the eastern portion, and if so, it would allow those who live there presently to make plans to anticipate the future, to natural attrition, or whatever. Can we place timelines to the development?

City Attorney Wonderlich

You're talking about delayed zoning or delayed development?

Vice Mayor Heider

I'm talking about delayed application or delayed improvements.

City Attorney Wonderlich

I will have to do some research and will come back to you with that one. I have never heard of that. But I will have to research that one.

Gerald Martens

I do believe that certainly with the PUD agreement it's a contract between the parties. I think the parties could agree to some type of a timeline, in the PUD agreement. I would prefer that it was more of a dual approach, a time line not to exceed type of agreement or an occupancy threshold that was attained. I am looking out for the interest of the property owners. At some level they cannot afford the taxes they are paying, they cannot afford to operate it and they would have to discontinue leasing to those few that were left. Now that certainly, I don't think would happen very quickly, because it is a well maintained park and they intend to continue to maintain it. I don't think anybody is going to leave because it is not maintained or operated properly really, but we are probably willing to work with some staff on some language that would set some threshold dates or timelines or occupancy numbers so that people living there could put it on the calendar or least potential buyers, right now it's a total uncertainty. I understand their concerns but it is an uncertainty to buyers anyway. This would at least put some timeline on there. As I spoke earlier, the first is going to take several years, and I mean more than 5 to get a start on the initial phase, and that's if the economy turns around. I think it is more important for the owners to get the entitlements on the entire property even if they're some restriction on how soon they can develop the second phase. Thank you.

City Attorney Wonderlich

I am concerned about Council imposing on the developer a delay in their development. If the developer on the other hand has every right to come to you and say that we would like a delay, in that way you are not imposing on them, they are offering it as some kind of incentive to approve their zoning. If Gerald has authority to do that, that might give you a little bit of flexibility in what you are doing tonight.

Councilperson Johnson

Gerald, I understand that you do not own the property and your are not the developer but you are the engineer and the spokesperson, would the property owners entertain an offer to purchase the 35 acres that is now Lazy J mobile home park?

Gerald Martens

Certainly. Obviously when they are moving forward with the planning on this property their intent is develop and to get the entitlements for the property to be marketed. I would have to think that they would entertain an offer. I can't imagine why anybody would not entertain an offer.

Councilperson Johnson

I feel the pain on both sides of this. Private property owner's rights and what rights do we really have to limit their development of their property and the social economic reality for seniors. I also have to wonder in the back of my mind if there was a rent increase. I don't know if there limited by law or what, but I am not suggesting this folks, I am just asking myself. I heard somebody say don't rezone it, keep it as a community asset. It is not a community asset although a lot of fine folks from our community live there, it's a privately owned park. I am wondering what monsters lurk if we did nothing or didn't respect a request of a private property owner. I was thinking, surely, the property owner would entertain selling that asset to folks who wanted to keep it or a group that wanted to keep it, or a developer would want to keep it as a "community asset."

Community Development Director Humble

Somebody asked of the Council why don't you go out and talk to the residents and I thought I would be fair to remind you and some of them here that you are not allowed to do that, because this is a public hearing on a zoning request. It is a quasi judicial roll for the Council and you cannot go out and do those kinds of things. You have to get your input of your request here at the public hearing. The public portion testimony was closed.

Deliberations:

City Attorney Wonderich

The only thing you actually tonight is a public hearing in which you now have finished. You are not required to make a decision tonight, you can however, if you want to direct us to write an ordinance or not.

Vice Mayor Heider

It's obvious from the attitude of those who live at mobile home portion of this zoning request that they would desire to be there for a longer period of time. I think the C-1 zoning is an allowable and prudent request for the property. It does not change their ability to maintain their residents at the Lazy J park. I would suggest that if we approve this zoning change with staff recommendations that we place some kind of requirement on the owner of the property and City staff to develop a timeline not less than 10 years for the development for the eastern portion of the property. So they can go ahead, zone everything C-1, and that allows them for future development to have a C-1 zone, which complies with the zoning ordinance and it allows them to develop the western portion of the property and it allows the residents to stay for an extended period of time and continue their lifestyle and to look for alternate lifestyle changes in the future,. Many of them elderly and don' want to change initially but it gives them that option. I think something along that line would be the most appropriate action to take.

Councilperson Johnson

I have a good friend that lives at Lazy J and I certainly do, in case you heard my earlier remarks, I certainly do value the park but I also respect the ownership that is privately owned. If somebody wants to change that use I don't know how you block that. We are not a socialistic society, if you are going to allow folks the freedom and respect the system that we have, I think anything we do can damage to the private property owner's values as well as folks that are already impacted. As I was listening to testimony tonight I would like to set up the all the mobile homes in my backyard but unfortunately would not fit. I think you got to respect the request, and we have known Gerald Martens for years, he has come to this Council and been a quality developer. I know you don't own this property, Gerald, but I just want to say that I respect what you say. I respect what you say and I believe what you say and I believe this Council has to consider that too. This isn't an out of town cold blooded big city killer developers coming in, these are folks that sincerely want to do good and own property and they have financial realities that they are impacted with. I think we have to respect this request. Granting this request in its form that is written does not allow them to go and do anything, except submit more plans. There's still protection along the way. It's got to start somewhere and fits in the comprehensive plan. I think it makes sense as Vice Mayor Heider said, it's a sensible request, it's not outlandish and they have made a lot of compromises since the Planning & Zoning Commission meet. We have heard from one of the Planning & Zoning Commission members tonight saying he would change his vote now. That would change the outcome of that recommendation already. Sounds like there have been reasonable accommodations to this point as to what they asked us what they wanted to do.

Councilperson Lanting

I guess I have a little different take on it Dave. Part of my reasoning, part of the emotional thoughts were concerns, is that I use to live at Lazy J and it is a well maintained mobile home park and the best in the area, as mentioned. One of the parts Gerald talked about actually gives me pause on this full proposal. We talked about several other 35 and 40 acre areas in how long it takes them to develop.

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They develop all by themselves. They didn't need another 35 acres to go with them. So to me the western portion can be developed without changing the zoning of the eastern portion. This is a large commercial development. All of that land is probably prime commercial real estate. It has Washington on one side, it's got Pole Line on the other side, Cheney on third side and never did catch the name of the new street in through there. I am opposed to doing the whole 70 acres. I would certainly entertain a C-1 PUD or a C-1 Business Park PUD for the western 35 acres. I think that is plenty big enough. It give these people at least a realization that there's a possibility that theirs could stay the way it is for always and I know the rent is a little bit higher than when I was there. I was there in 1977, I think, and for 5 or 6 years, and I think it has been an economic profit center for the owners at this point. I can't vote for the whole 70 acres.

Councilperson Kezele

I know we don't have a motion on the floor, but I know that the Council has expressed some feelings perhaps it's okay weigh in just a little bit. This is difficult. This is difficult for me because there are principals in which I ran for, for which I ran on, the one for Council and one of those was not to change the zoning on existing homes. I stand by that statement tonight. What is difficult about this one, is that somebody owns the property and as the owner of property, there is nothing that we can do in the Council's position that forces, if you will, the owner to close that property. If the owner's of the property want to close it tomorrow and tell you that you all have to move that's their right to do. That's what makes this very difficult. There is nothing here that's going to keep the owners keeping that place in business other you all making it sense to do so. That's what makes this difficult if this was a neighborhood, that this is a no brainer for me, but as I look at this, I need to tell you too that even though you do not own the land it sits on its is you home, and to me that means your neighborhood, and for me that means that the owners take some responsibility that once they setup someone's home they respect that someone's home is there, and that they accept that responsibility going forward, but with that being said, the people who own the property have the right to do whatever they want and if they want to close it tomorrow they certainly can, and that makes it very difficult. I too have worked with Mr. Martens for several years here on the Council. He has never given us anything that he has no backed, that I am aware of. I have known that he has been in some difficult situations and he works closely with the people around him to make that work out. I am confident that he and the owners of the property will make this work out. With that all being said, I have to agree, I have to agree with the Councilman to the right, that I am not comfortable zoning the entire piece of property. I still recognize the need. I see the protection that's being placed on it. I think they have been gracious in doing so. I do believe you are protected in what you are trying to accomplish. I am just not comfortable with it. So I am going to wait and see what the motion is and how the motion turns out. Sometimes these motions come with different amendments. I would really like to see this separated if possible for right now.

Mayor Hall

Before I weigh in I want to get some clarification, we do not have to take any action tonight, and if we make a motion it has to go through third and final?

City Attorney Wonderlich

No. If you approve to have a zone change, we will have to bring an ordinance back to you. It will take three readings unless it is placed on third and final.

Mayor Hall

This is absolutely a gut wrencher. I think I've stood most of my time on Council be fairly pro business. Because I understand that in a capitalistic society, and those that run businesses and employ people, that is the life blood of our community, that is how we make a living , that's how we get our tax base to get roads and all those dynamics. I've always tried to be business friendly but I'm also a big softie when it comes to kids and our seniors. Those are two entities that we need to protect the most. Again, I am torn here. Property owner's rights on one side of the equation and then folks that are unsure and worry about their future and their investment, and their homes, on the other side. This is absolutely a gut wrencher for me because I believe in both of those. I do believe that if we did approve what's in front of us tonight you actually do have more protection, at least for the interim, because the property owner, as Mr. Kezele said, tomorrow they could say eviction, because it's a lease situation. At least in this situation, there would be a little more protection for you. I guess I'll leave it as I am struggling with this issue.

Councilperson Kezele

I do think these kind of decisions are perhaps best suited for all seven of us. We have a couple of members that are missing tonight and perhaps they ought to have an opportunity to weigh in on this decision before final decision is made and I would also like to have, before the final decision is made, perhaps the parties get together and see if we can't find that ground of comfort to give you a little more of a timeline. Perhaps there could be some commitments on some timelines. That's up to the owners. I just think there needs to have a little more understanding then just leaving it out there. Tomorrow can change, there's nothing guaranteeing that. I don't know how you feel about that or how the owners of the property feel about that. The hope is to find some common ground. Obviously that land isn't always going to be a mobile home park, we have to come to terms with that at some point. Giving everybody some time to work with that is

very important. Finding them a place to go to, they could close it tomorrow, where would they move? It's difficult for all of us and it is difficult for the property owners who are also trying to pay their taxes and their property rights.

Mayor Hall

I think it is important for the other Councilmember's to weigh on this. It's very important to us. So if there is nothing further from Council we adjourn.

No action taken.

V. **ADJOURNMENT:** Adjourned at 8:18 P.M.

Leila A. Sanchez
Deputy City Clerk/Recording Secretary



DATE: MONDAY -- OCTOBER 03, 2011

To: Honorable Mayor and City Council

From: Mitch Humble, Community Development Director

AGENDA ITEM II-

Request:

Consideration of adoption of one (1) ordinance(s) regarding a request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Family Limited Partnership, Lazy J Ranch – Linda Wills. (app.2389)) **Ordinance #** _____

Time Estimate:

Staff presentation may be approximately five (5) minutes.

Approval Process:

State Code: Idaho Code 67-6509

City Code: Title 10; Chapter 14; Zoning Amendments

10-14-7: ACTION BY COUNCIL:

The Council, prior to adopting, revising or rejecting the amendment to this Title as recommended by the Commission shall conduct at least one public hearing using the same notice and hearing procedures as the Commission. Following the Council hearing, if said Council makes a material change from what was presented at the public hearing, further notice and hearing shall be provided before the Council adopts the amendment.

Upon granting or denying an application to amend this Title, the Council shall specify:

- (A) The regulations and standards used in evaluating the application.
- (B) The reasons for approval or denial.
- (C) The actions, if any, that the applicant could take to obtain a permit.

In the event the Council shall approve an amendment, such amendment shall thereafter be made a part of this Title upon the preparation and passage of an ordinance. (Ord. 2012, 7-6-1981)

Budget Impact:

Approval of this request will not impact the City budget.

Regulatory Impact:

The Council's adoption of the ordinance(s) will allow the code to be amended as approved.

History:

On February 7, 2011 the City Council approved the request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, as presented, by a vote of 5 for and 2 against subject to the following conditions:

1. Subject to amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirement and standards.
2. Subject to arterial and collector streets adjacent and within the property being dedicated to the City of Twin Falls and to be rebuilt or built to current City standards upon development of the property.

IN ADDITION:

There shall be no development of the area designated on the Master Development Plan as Lazy J Mobile Home Park for a period of 5 years following the date of rezoning to C-1, annexation and PUD approval with the following specific exceptions:

- A. The mobile home located at Space #141, adjacent to the Williams Road entrance from Pole Line Road, may be relocated within the Lazy J Mobile Home Park at Lazy J Mobile Home Park expense.
- B. The Lazy J Mobile Home Park spaces adjacent to Cheney Drive, as generally depicted on the Master Plan, may be minimally impacted by grading for Cheney Drive on adjacent land owned by College of Southern Idaho. No relocation or removal of mobile homes on said spaces will occur without approval of the owner of the mobile home.
- C. Following five years after the date of rezoning to C-1, annexation, and PUD approval there shall be no development restrictions and Lazy J may develop any or all acres the Lazy J Mobile Home Park with no relocation or consolidation obligations provided said development is in conformance with the approved zoning, the revised Master Plan, and the applicable PUD Agreement.
- D. Construction of Williams Street will include a 6-foot high screening fence on the east side of the roadway to buffer the Lazy J residents from commercial activities that may occur to the west. Specifications for construction of Williams Street will also include requirements for construction, dust control, and restriction to preclude construction activity between 8:00 p.m. and 8:00 a.m. daily.
- E. Lazy J management will provide all residents with a periodic updated report on developments that may impact the resident including scheduled roadway construction, building schedules when known, marketing updates, and anticipated impacts to the mobile home park. These written reports will be prepared on no less than an annual basis. The purpose of the report, in addition to informing the residents, is to minimize the impacts of unfounded rumors.

Analysis:

The ordinance has been prepared as directed by the Council and is recommended for adoption as submitted.

Conclusion:

Staff recommends that the Council adopt the attached ordinance as submitted.

Attachments:

1. DRAFT Ordinance
2. Portion of the February 7, 2011 City Council minutes

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, REZONING REAL PROPERTY BELOW DESCRIBED; PROVIDING THE ZONING CLASSIFICATION THEREFOR; AND ORDERING THE NECESSARY AREA OF IMPACT AND ZONING DISTRICTS MAP AMENDMENT.

WHEREAS, **BCM&W, KLS&M, AND CANYON VISTA FAMILY LIMITED PARTNERSHIP, C/O LAZY J RANCH AND LINDA WILLS** had made application for a rezone of property located at the southeast corner of Pole Line Road and Washington Street North; and,

WHEREAS, the City Planning and Zoning Commission for the City of Twin Falls, Idaho, held a Public Hearing as required by law on the 28th day of September, 2010, to consider the Zoning Designation and necessary Area of Impact and Zoning Districts Map amendment upon a REZONE of the real property below described; and,

WHEREAS, the City Planning and Zoning Commission has made recommendations to the City Council for the City of Twin Falls, Idaho; and,

WHEREAS, the City Council for the City of Twin Falls, Idaho, held a Public Hearing to consider the same matter on the 7th day of February, 2011.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

SECTION 1. That the following described real property located at the southeast corner of Pole Line Road and Washington Street North is the subject of a Zoning District Change and Zoning Map Amendment from R-4 to C-1 PUD:

SEE ATTACHMENT "A"

SECTION 2. Public services may not be available at the time of development of this property, depending upon the speed of development of this and other developments, and the ability of the City to obtain additional water and/or sewer capacity. The zoning of this property shall not constitute a commitment by the City to provide water and/or wastewater services.

SECTION 3. That the Area of Impact and Zoning Districts Map for the City of Twin Falls, Idaho, be and the same is hereby amended to reflect the rezoning of the real property above described.

PASSED BY THE CITY COUNCIL

February 07, 2011

SIGNED BY THE MAYOR

, 20__

Mayor

ATTEST:

Deputy City Clerk

PUBLISH: Thursday,

, 20__

ATTACHMENT "A"

A parcel of land located in a portion of Government Lots 3 and 4, in Section 4, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, being more particularly described as follows:

Commencing at the North quarter corner of Section 4. Said point lies North 89°54'58" East 2640.95 feet from the Northwest corner of Section 4. Thence South 01°00'53" West 70.88 feet along the East boundary of Government Lot 3 of Section 4 to a point on the Southerly Right of Way of Highway Project DHP-NH-F-2390 (104) and being the REAL POINT OF BEGINNING.

THENCE continuing South 01°00'53" West 1199.28 feet along the East boundary of Government Lot 3 to the Southeast corner thereof;

THENCE North 89°38'17" West 2571.15 feet along the Southerly boundary of Government Lots 3 and 4, of Section 4 to a point on the Easterly Right of Way of Highway Project DHP-NH-F-2390 (104);

THENCE along a curve Right along said Right of Way:
Δ - 00°33'13"
R - 8146.31'
A - 78.70'
C - 78.70'
LCB - North 03°56'50" East to a point 17.00 meters right of metric Highway Station PRC 216+67.393;

THENCE along a curve Left along said Right of Way:
Δ - 03°22'50"
R - 8257.86'
A - 487.23'
C - 487.16'
LCB - North 02°31'51" East to a point 17.00 meters Right of metric Highway Station PT 218+14.893;

THENCE North 00°50'26" East 164.39 feet along said Right of Way to a point 17.00 meters Right of metric Highway Station 218+65.000;

THENCE North 03°49'43" East 264.34 feet along said Right of Way to a point 21.20 meters Right of metric Highway Station 219+45.461;

THENCE along a curve Right along said Right of Way:
Δ - 81°53'14"
R - 98.43'
A - 140.67'
C - 129.00'
LCB - North 44°48'17" East to a point 27.00 meters Right of metric Highway Station 819+46.168;

THENCE North 85°44'43" East 81.20 feet along said Right of Way to a point 25.20 meters Right of metric Highway Station 819+70.851;

THENCE North 89°54'59" East 261.66 feet along said Right of Way to a point 25.20 meters Right of metric Highway Station PC 820+50.605;

THENCE along a curve Left along said Right of Way:
Δ - 03°06'02"
R - 11,565.59'
A - 625.87'
C - 625.80'
LCB - North 88°21'55" East to a point 25.20 meters Right of metric Highway Station 822+40.00;

THENCE North 03°11'04" West 11.81 feet along said Right of Way to a point 21.60 meters Right of metric Highway Station 822+40.00;

THENCE along a curve Left along said Right of Way:
Δ - 01°20'56"
R - 11,553.78'
A - 272.00'
C - 272.00'
LCB - North 86°08'28" East to a point 21.60 meters Right of metric Highway Station PT 823+22.398;

THENCE North 85°28'00" East 96.51 feet along said Right of Way to a point 21.60 meters Right of metric Highway Station PC 823+51.813;

THENCE along a curve Right along said Right of Way:
Δ - 04°26'57"
R - 11,412.05'
A - 886.17'
C - 885.95'
LCB - North 87°41'30" East to a point 21.60 meters Right of metric Highway Station PT 826+23.597;

THENCE North 89°54'58" East 234.11 feet along said Right of Way to the REAL POINT OF BEGINNING.

Containing approximately 66.95 acres.

COUNCIL MEMBERS:

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



MINUTES
Meeting of the Twin Falls City Council
February 7, 2011
City Council Chambers
305 3rd Avenue East Twin Falls, Idaho

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: Congenital Heart Defect Awareness Week. Karri Ernest will be in attendance.

AGENDA ITEMS

I. CONSENT CALENDAR:

1. Consideration of accounts payable for January 25 to February 7, 2011.
2. Consideration of the January 24, 2011, City Council Meeting Minutes.
3. Consideration of Findings of Fact, Conclusions of Law, and Decision:
 - a. Zoning District Change & Zoning Map Amendment, Application for 200 South Developers c/o Francis Florence.
 - b. Zoning District Change & Zoning Map Amendment, Application for W S & V, LLC c/o Doug Vollmer.
4. Consideration of a request to accept a deferral agreement for sidewalk improvements on property located at 810 Mae Drive c/o William and Holly Stevens.
5. Consideration of a request to adopt *Resolution 1864* to destroy semi-permanent and temporary records.

II. ITEMS FOR CONSIDERATION:

1. Presentation by Linda Culver, Congressman Simpson's Office, A. J. Church, Senator Crapo's Office, Mike Mathews, Senator Risch's Office to introduce themselves to the City Council.
2. Consideration of a request to adopt *Resolution 1865* declaring public support for the Crisis Center of Magic Valley, Inc. by Deborah Gabardi.
3. L. Scott Andrus will present information and request action relevant to Idaho State Liquor Division retail sales within its municipal jurisdiction. No accompanying staff report. Request is being made by citizen.
4. Consideration of a 3-year Contract Extension from CH2M Hill (OMI) for the operation and maintenance of the Waste Water Treatment Plant, industrial pre-treatment program and associate sewer lift stations.
5. Consideration of a request for approval of the final plat for Pinnacle West Condominiums, nineteen (19) condominium units on 1.65 acres on property legally described as Lot 3A, Block 1, River Vista PUD Subdivision aka 177 River Vista Place c/o The Land Group, Inc. Scott Allen.
6. Public input and/or items from the City Manager and City Council.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

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

1. Request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Family Limited Partnership, Lazy J Ranch – Linda Wills. (app.2389)
2. Request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 for property located at 131 Caswell Avenue West c/o Todd Ostrom on behalf of H30, LLC (app.2409)
3. Request for a Comprehensive Plan Amendment that would amend Chapter 11, Development Impact Fee and Capital Improvement Plans by adding two street projects to the Street Impact Fee Capital Improvement Plan c/o City of Twin Falls. (app. 2413)
4. Public Hearing to accept testimony regarding a resolution authorizing the filing of a petition for judicial confirmation to enter into a loan agreement to fund improvements to the wastewater system.

V. ADJOURNMENT:

COUNCIL MEMBERS PRESENT: Lance W. Clow, Trip Craig, Don Hall, David Johnson, Will Kezele, Gregory Lanting, Rebecca Mills Sojka

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Manager Tom Courtney, Assistant City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Public Works Director Jon Caton, Deputy City Clerk/Recording Secretary Leila A. 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 staff.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None.

PROCLAMATIONS: Congenital Heart Defect Awareness Week. Karri Ernest will be in attendance.

Mayor Hall read the proclamation and presented it to Karri Ernest.

AGENDA ITEMS

Recess at 6:28 P.M.

Reconvened at 6:40 P.M.

I. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

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

1. Request for a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Family Limited Partnership, Lazy J Ranch – Linda Wills. (app.2389)

Gerald Martens, EHM Engineers, Inc., representing the applicant, explained the request. The outstanding issue of the request is the impact on the Lazy J Mobile Home Park. Discussions were held with several mobile home park tenants regarding their concerns. Property owners have agreed to place the following language in the PUD Agreement:

No development of the area designated on the Master Development Plan as Lazy J Mobile Home Park shall be developed for a period of 5 years following the date of rezoning to C-1, annexation and PUD approval with the following specific exceptions:

1. The mobile home located at Space #141, adjacent to the Williams Road entrance from Pole Line Road, may be relocated within the Lazy J Mobile Home Park at Lazy J Mobile Home Park expense.
2. The Lazy J Mobile Home Park spaces adjacent to Cheney Drive, as generally depicted on the Master Plan, may be minimally impacted by grading for Cheney Drive on adjacent land owned by College of Southern Idaho. No relocation or removal of mobile homes on said spaces will occur without approval of the owner of the mobile home.
3. The vacancy rate of the Lazy J Mobile Home Park exceeds 28 percent at which time the owner reserves the right to close all or portions of the mobile home park.

Following five years after the date of rezoning to C-1, annexation, and PUD approval there shall be no development restrictions and Lazy J may develop any or all acres the Lazy J Mobile Home Park with no relocation or consolidation obligations provided said development is in conformance with the approved zoning, the revised Master Plan, and the applicable PUD Agreement.

4. Construction of Williams Street will include a 6-foot high screening fence on the east side of the roadway to buffer the Lazy J residents from commercial activities that may occur to the west. Specifications for construction of Williams Street will also include requirements for construction, dust control, and restriction to preclude construction activity between 8:00 p.m. and 8:00 a.m. daily.
5. Lazy J management will provide all residents with a periodic updated report on developments that may impact the resident including scheduled roadway construction, building schedules when known, marketing updates, and anticipated impacts to the mobile home park. These written reports will be prepared on no less than an annual basis. The purpose of the report, in addition to informing the residents, is to minimize the impacts of unfounded rumors.

Linda Wills, 2011 Oakwood Drive, representing the ownership, manager, and stock holder of Lazy J explained the request. Mobile home parks have dwindled in the past ten years. No new parks have opened in Twin Falls since 1983. No new parks have been brought to the City Council except one. Most homes are pre-cut, built before 1976, and do not meet HUD requirements making it difficult for residents of the Lazy J Park to sell homes. Only two new homes have come into Lazy J the past eight years. Currently there are 32 vacant spaces and two abandoned homes which the owner maintains. Water, sewer, and garbage on vacant spaces are paid by the owner. Since October 2, 2010, residents have had their homes demolished. Twin Falls County has based taxes on the property as commercial property making it difficult for the business to make money.

Discussion followed:

Linda Wills stated that the lease agreements signed by the residents are on a month to month basis.

Councilperson Clow stated that with 32 vacancies and two abandoned units, the vacancy rate is at 21%.

Linda Wills stated that the 28% of the vacancy is a safety spot in order to stay in business.

Councilperson Clow stated that if 10 or 11 sites are abandoned or vacant it could trigger the 28% vacancy rate.

Christy Williams stated that when the State took property from the owners the State representative asked how many vacancies were at the park at the time and she reported that there were 8 vacancies.

Vice Mayor Lanting asked if the park is on city water, and sewer, and if a lot is vacant, does the City still charge for the services. Linda Wills answered in the affirmative.

Mayor Hall stated that he and Councilperson Sojka are employed by the College of Southern Idaho and asked City Attorney Wonderlich if there was a conflict of interest.

City Attorney Wonderlich stated no, for the reason that they are not employed by the College of Southern Idaho Foundation.

Community Development Director Humble reviewed the request. On October 25, 2010, a public hearing was held for annexation of the west one-half of the property. Approval was subject to this property being included in and approved as part of the Sun West C-1 Business Park PUD.

Discussion followed:

Vice Mayor Lanting asked if mobile homes could be moved within the mobile home park.

Linda Wills stated that over one-half of the mobile homes are pre 1976 and do not meet HUD requirements.

Councilperson Clow stated that in the past year, several zoning requests have been made on the south half of Pole Line Road and asked why C-1 zoning has been designated and why the applicant was seeking the C-1 zoning.

Community Development Director Humble stated that a business park is more flexible. A manufacturing designation is less of a concern for surrounding neighbors.

Gerald Martens stated the business park was to bring the commercial zone into what is happening in other areas in the country. Light manufacturing could be done inside a building. The designation would require the owner to do the following: Landscape interior streets, signage, and meet architectural criteria.

Community Development Director Humble stated that the City is chiefly concerned about Harrison Street and also that leaving it R-4 does not protect the residents. A mobile home park has no zoning protection.

The public input portion of the hearing was opened.

Rich Carpenter, 450 Pole Line Road #96, stated that he met with Gerald Martens on January 4, 2011. His main concern is no development for 5 years or the 28% vacancy rate at which time the owner reserves the right to close all or portions of the mobile home park. The financial bind is almost life threatening. Based on comments made by the Council, sooner or later Lazy J will be Zoned C-1. He recommended that the City Council approve the 35 acres, and in the meantime set up meetings with the residents and the owners to talk about issues that come up to get a view of the future of what is going to happen.

Robert Becker, 450 Pole Line Road, #33, spoke against the request. His concerns include the lack of compensation of any kind for loss of homes and relocation costs.

Margaret Cook, 450 Pole Line Road, #76, spoke against the request. Her concern is the 28% vacancy rate at which time the owner reserves the right to close all or portions of the mobile home park, and she is also concerned about the cost of moving on a fixed income. For a point of clarification she asked when Harrison Street would be going in.

Verna Jean Carrico, 450 Pole Line Road, #105, spoke against the request. She stated that she has invested her retirement, as others have, in her home. Her concern is that relocation costs will not be provided.

Minutes

February 7, 2011

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Mary Galindo, 450 Pole Line Road, #120, spoke against the request. Her main concern is the inability to afford moving her home. She asked that if homes are consolidated on the property who would pay for the move and if it would be possible to give the owners a break on water utilities.

Dave Funke, 450 Pole Line Road, #138, spoke against the request. He stated that the proposed road would be going right through his home. He asked if he would be compensated for his home.

Ono O'Brien stated the following: The federal government has put a big bind on the residents. He suggested grandfathering the Lazy J property as R-4, allow fifth wheels into the park to fill the vacancies, to only allow commercial in the west 38 acres, recompense the residents who are losing their homes, and remove the 28% vacancy rate at which time the owner reserves the right to close all or portions of the mobile home park.

Jerome Sauer, 450 Pole Line Road, #81, suggested that the City Council reduce the cost or eliminate the cost for all the sewer hookups not being used.

Katy Breckenridge, Picabo, Idaho, stated that there should be a way the City could help the Williams family with the taxes on the property, and with the water, sewer, and garbage utilities. She also discussed the connection of Harrison Street to the back of the Breckenridge Endowment Farm, which her family gifted to college.

Brad Wills, 222 Shoshone Street West, stated that he is the owner of 158 manufactured homes south of town that were built prior to 1978. He stated that he can relate to Linda Williams' plight.

Rebuttal:

Gerald Martens stated that effort had been made to meet with all residents at the Lazy J Mobile Home Park. Information has not been held back from the residents. He stated that Harrison Street will be built after the five years. The Williams family has owned the property for the past 50 years. Taxes have nothing to do with zoning. Any relief would help the viability of the mobile home park. The consolidation of trailers would be the owner's expense and after five years it would be at the resident's expense.

Discussion followed:

Councilperson Kezele asked if discussion has been made regarding the residents buying the property.

Rich Carpenter stated not to his knowledge.

Councilperson Mills Sojka asked if the owners are being charged for water that is not being used.

City Manager Courtney stated that one bill is sent for the entire park. Billings are based on consumption at the meter and fee per unit at the park.

Councilperson Hall asked if the \$11.15 arsenic compliance was charged for one unit.

Linda Wills stated that utilities are included in the rental cost. The \$11.15 was billed only once.

Councilperson Clow asked what State law says in regards to eviction notices.

City Attorney Wonderlich stated that Idaho Code requires a 180 day notice of cessation.

Councilperson Mills Sojka asked if the rental agreement addresses the possible rezoning of the property.

Linda Wills stated that the pre-rental agreement was revised in July of 2010, addressing zoning, utilities, no pets, and 55 and over senior community.

Councilperson Johnson asked what would happen if the Council does not grant the rezoning request.

Linda Wills stated that she would try to keep the mobile home park open as long as she could.

Mayor Hall asked if there was some flexibility in the 28% vacancy rate.

Linda Wills stated that she feels strongly about the 28% vacancy rate.

C.R. Crabtree, 450 Pole Line Road, #105, stated that since 2006 there have been two rent increases. No contact has been made by the developer.

Councilperson Craig asked staff if the City could assist in the cost of the sewer and water hookups and if the URA Agency could help out on this project.

Community Development Director Humble stated that the URA can't spend money out of the URA district.

Councilperson Johnson asked that if the request is approved what is the C-1 PUD process.

Community Development Director Humble stated that an ordinance would be prepared and would come back to the Council in a future meeting. The PUD agreement would need to come back to Council for approval. He also explained the C-1 process.

Joe Young, 1450 Pole Line Road, #88, stated that he is in a mobile home that will be impacted by the development of Cheney Drive.

Councilperson Clow asked for clarification of the four homes that will be impacted.

Gerald Martens stated that relocation fees would occur within five years or until the 28% vacancy rate is met.

Councilperson Mills Sojka asked the status of Harrison Street.

Community Development Director Humble stated the plan shows a rough alignment of the street. Harrison Street, for example, could shift 30' to the west or 30' to the east. Nothing finalizes that decision at all.

Councilperson Clow stated that his understanding is that streets can go through farms.

Community Development Director Humble stated that Harrison is cut off at a ½ mile collector. It is a development requirement.

The public hearing portion of the meeting was closed.

The public hearing was closed.

Deliberations.

MOTION:

Councilperson Johnson made the motion to approve a Zoning District Change and Zoning Map Amendment from R-4 to C-1 Business Park PUD to develop a planned commercial development on 70 (+/-) acres located at the southeast corner of Pole Line Road and Washington Street North, c/o Gerald Martens/EHM Engineering Inc., on behalf of BCM&W, KLS&M, and Canyon Vista Family Limited Partnership, Lazy J Ranch – Linda Wills. (app.2389) as presented by the applicant and confirmed by City staff.

1. Subject to amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirement and standards.
2. Subject to arterial and collector streets adjacent and within the property being dedicated to the City of Twin Falls and to be rebuilt or built to current City standards upon development of the property.

Revisions to the PUD Agreement:

No development of the area designated on the Master Development Plan as Lazy J Mobile Home Park shall be developed for a period of 5 years following the date of rezoning to C-1, annexation and PUD approval with the following specific exceptions:

1. The mobile home located at Space #141, adjacent to the Williams Road entrance from Pole Line Road, may be relocated within the Lazy J Mobile Home Park at Lazy J Mobile Home Park expense.
2. The Lazy J Mobile Home Park spaces adjacent to Cheney Drive, as generally depicted on the Master Plan, may be minimally impacted by grading for Cheney Drive on adjacent land owned by College of Southern Idaho. No relocation or removal of mobile homes on said spaces will occur without approval of the owner of the mobile home.

3. The vacancy rate of the Lazy J Mobile Home Park exceeds 28 percent at which time the owner reserves the right to close all or portions of the mobile home park.
Following five years after the date of rezoning to C-1, annexation, and PUD approval there shall be no development restrictions and Lazy J may develop any or all acres the Lazy J Mobile Home Park with no relocation or consolidation obligations provided said development is in conformance with the approved zoning, the revised Master Plan, and the applicable PUD Agreement.
4. Construction of Williams Street will include a 6-foot high screening fence on the east side of the roadway to buffer the Lazy J residents from commercial activities that may occur to the west. Specifications for construction of Williams Street will also include requirements for construction, dust control, and restriction to preclude construction activity between 8:00 p.m. and 8:00 a.m. daily.
5. Lazy J management will provide all residents with a periodic updated report on developments that may impact the resident including scheduled roadway construction, building schedules when known, marketing updates, and anticipated impacts to the mobile home park. These written reports will be prepared on no less than an annual basis. The purpose of the report, in addition to informing the residents, is to minimize the impacts of unfounded rumors.

The motion was seconded by Councilperson Clow.

Discussion followed.

AMENDMENT TO THE MAIN MOTION:

Councilperson Clow made an amendment to the main motion to strike the following condition on the main motion:

3. ~~The vacancy rate of the Lazy J Mobile Home Park exceeds 28 percent at which time the owner reserves the right to close all or portions of the mobile home park.~~

Following five years after the date of rezoning to C-1, annexation, and PUD approval there shall be no development restrictions and Lazy J may develop any or all acres the Lazy J Mobile Home Park with no relocation or consolidation obligations provided said development is in conformance with the approved zoning, the revised Master Plan, and the applicable PUD Agreement.

The motion was seconded by Councilperson Johnson and roll call vote showed Councilpersons Clow, Hall, Johnson, Lanting and Mills Sojka voted in favor of the motion. Councilperson Craig and Kezele voted against the motion. Approved 5 to 2.

Discussion followed.

Councilperson Craig stated that if the Council does not support the request, it would be possible for the land to be sold to somebody else, thus allowing the new owner to do anything they want.

Roll call vote on the main motion showed Councilperson Clow, Craig, Hall, Johnson, and Kezele voted in favor of the motion. Councilpersons Lanting and Mills Sojka voted against the motion. Approved 5 to 2.



MONDAY October 3, 2011
To: Honorable Mayor and City Council
From: Fritz Wonderlich

Consideration of adoption of one ordinance regarding that the role of the Animal Shelter Advisory Commission be eliminated from a codified position.

Attachments: Ordinance & Minutes

Minutes
August 29, 2011

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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, REPEALING CHAPTER 9 OF TITLE 2 OF THE TWIN FALLS CITY CODE.

WHEREAS, The Twin Falls City Council finds that there is no longer any useful purpose for the Animal Shelter Advisory Commission.

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

That Chapter 9 of Title 2 of the Twin Falls City Code, providing for an Animal Shelter Advisory Commission, is hereby repealed.

PASSED BY THE CITY COUNCIL, _____, 2011.

SIGNED BY THE MAYOR _____, 2011.

MAYOR

ATTEST:

DEPUTY CITY CLERK



MONDAY October 3, 2011

To: Honorable Mayor and City Council

From: Mitch Humble, Community Development Director

Request:

A public hearing to receive input on the City's intent to offer for sale approximately 0.27 acre of City owned property located at 287 Washington Street North.

Time Estimate:

The staff presentation will take approximately 5 minutes. Time will be needed for public input and for discussion and questions.

Background:

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. Staff has talked to several people interested in acquiring this property from the City.

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.

At their September 12, 2011 meeting, the Council declared the City owned property located at 287 Washington Street North was excess to City needs and that the City intends to dispose of the property via public auction. At that meeting, the Council also established the minimum value of that property to be \$82,612, or the value from the County Assessor, whichever is greater. On September 19, 2011, City staff contacted the County Assessor about the property. The Assessor indicated the value they had assigned to the property is \$86,249. The County Assessor's value is the greater of the two and will be used as the minimum value for the property. A public hearing must be held to receive comments on the sale of the property. Following the hearing, the Council can then direct staff to begin the auction process for 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 auction process. Following the auction, the City will receive some revenue from the sale of the property.

Regulatory Impact:

As discussed above, approval of this request will allow staff to proceed with the auction process for this property. At the conclusion of the auction, the Council will be asked to authorize the sale of the property to the highest bidder.

Conclusion:

Staff recommends that the Council direct staff to begin the auction process to dispose of the City owned property located at 287 Washington Street North.

Attachments:

Property Location Map





MONDAY October 3, 2011

To: Honorable Mayor and City Council

From: Mitch Humble, Community Development Director

Request:

A public hearing to receive input on the City's intent to exchange approximately 10.3 acres of City owned property located along the canyon rim, generally at the north end of Hankins Road North.

Time Estimate:

The staff presentation will take approximately 5 minutes. Time will be needed for public input and for discussion and questions.

Background:

A few years ago, the City Council and the developer of the Shoshone Heights subdivision, which contains the Evel Knievel 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.

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 exchange the property.

At their September 12, 2011 meeting, the Council declared the approximately 10.3 acres of City owned property located along the canyon rim, generally at the north end of Hankins Road North was excess to City needs and that the City intends to exchange the property with the developer of the Shoshone Heights subdivision. At that meeting, the Council also declared that the City expects to receive 6.71 acres along the canyon rim, including the Evel Knievel jump site, and developed access to the City's gun range. A public hearing must be held to receive comments on the proposed property exchange. Following the hearing, the Council can then direct staff to begin the exchange process for the property.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request. Following the hearing, staff will begin the exchange process with the Shoshone Heights developer. The exchange will come back to the Council for final acceptance of the transfer deeds.

Regulatory Impact:

As discussed above, approval of this request will allow staff to proceed with the exchange process for this property.

Conclusion:

Staff recommends that the Council direct staff to begin the exchange process with the Shoshone Heights subdivision developer for approximately 10.3 acres of City owned property located along the canyon rim, generally at the north end of Hankins Road North.

Attachments:

Property Exchange Map

EXHIBIT MAP

2007

CASPER SOUTHGATE, LLC.

SITUATED IN U.S. GOVERNMENT LOTS 8 AND 9 OF SECTION 36, AND U.S. GOVERNMENT LOT 9 OF SECTION 36, TOWNSHIP 9 SOUTH, RANGE 17 EAST, B.M. AND

THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 17 EAST, B.M.; TWIN FALLS COUNTY, IDAHO

2007

