



PLANNING & ZONING DEPARTMENT

Before the Planning & Zoning Commission
Meeting of 28 JUNE 2016

PUBLIC HEARING ITEM NO. 3 STAFF REPORT

Analyst: Robert Hobbs

Applicant(s):

Mark L. Hess representing Jerry Hess

File(s): CMA 025-16 & ANN 043-16

Requested Action Approval(s)

/Recommendation(s)/and Property Location(s):

1. **Comprehensive Plan Future Land Use Map Amendment from “Medium Density Residential” to “Community Mixed Use”** (decision required: *recommendation*) and, by association;
2. **Annexation from “County” into the City of Nampa and Zoning Assignment of land to “BC” (Community Business)...**(decision required: *recommendation*)

Pertaining to:

A certain pair of land parcels located at the NE corner of Madison and Ustick Road (a 1.52 acre portion of Section 34, T4N, R2W, SE ¼ of Frosty Acres Subdivision, Lots 1-2, Block 1 -- hereinafter the “Property”); see attached Vicinity Map...

COMPREHENSIVE PLAN MAP AMENDMENT

In the 2010 Idaho Legislative session, House Bill no. 608 was signed into law. This law provides that changes to a comprehensive plan land use map may be recommended by a Planning & Zoning Commission at any time, unless the local governing Board has established by Resolution a minimum interval between requested amendments not to exceed six months.

More important to this matter, **the two criteria that used to found in state law to guide the Commission and Council in determining whether to allow the modification or not are [now] absent from the same and from City ordinance(s).** Thus, approving or not a

requested comprehensive plan change/amendment becomes a purely subjective matter and decision on the part of a City like Nampa. In our case, Staff has been suggested that both the Commission and Council still give some consideration as to whether the area around a property under review for a Comprehensive Plan amendment is in flux and/or whether an error of some kind was made in the original Plan or on its associated Future Land Use Map that the current proposal would be fixing – or that an update to the same is warranted.

As to the matter made the subject of this report, the Property is currently positioned in a “Medium Density Residential” setting in Canyon County’s jurisdiction and is comprised of a pair of “enclaved” parcels. The Applicant(s) seek conversion of the residential setting to “Community Mixed Use”. The City’s currently adopted Comprehensive/Master Plan notes that,

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

Community Mixed Use Principles include the following:

“Provide an interconnection circulation system that is convenient for automobiles, pedestrians and transit”, and, “Located on major transportation corridors”, and, “May include higher density residential”, and, “Landscape areas”.

(Nampa 2035, Chapter 5 Land Use, 5.7 Commercial Mixed Use, Community Mixed Use, Feb. 2012)

Changing the Comprehensive Plan Future Land Use Map’s setting of “Medium Density Residential” to “Community Mixed Use” as requested would provide underlying support for development of the Property, once annexed, for commercial purposes. Such resultant harmonization between an actual, proposed land use and/or zone with the Comprehensive Plan Future Land Use Map would be considered, per industry practice and court decree, then properly arranged (i.e., needful/desirable/sustainable).

Commercial zoning is most logically found at major intersections in the majority of cases when such is proposed to be established outside of a “commercial node” – as proposed by the application made the subject of this report. A narrative to explain the goals of the Applicant(s) and their vision of the build-out pattern of the Property was not provided to Staff for inclusion in/with this report.

As the Property lies adjacent to and at the intersection corner of a pair of collector/arterial rights-of-way, lies just west of another area established by the Comprehensive Plan Future Land Use Map as “Community Mixed Use” and is developable land in an area perceived to be transitioning in land use character, Staff finds the contemplated application reasonable to consider.

ANNEXATION/[RE]ZONING CONCLUSIONS OF LAW

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

ANNEXATION/[RE]ZONING FINDINGS OF FACT

(PERTAINING TO THE APPROXIMATELY 1.52 ACRES OF LAND REQUESTED TO BE ANNEXED):

Zoning: Regarding Applicant's Proposed/Desired Annexation and Zoning Assignment Request (to BC) Staff finds:

1. Current Jurisdiction/Status:

The Property is currently within Canyon County; Property appears unencumbered presently with structures per imagery, is relatively flat and owned by the Applicant(s); and,

2. Surrounding Zoning:

That County land currently adjoins the Property to the north and lies adjacent to the same on the west (across Madison); City residential zoning lies east and south of the Property (with a sliver of County land between Ustick Road and the RS 6 zoning that lies south of the Property -- see attached Vicinity Maps); and,

3. Immediately Surrounding Land Uses:

Generally: On all sides open land or rural residential build-out, with a [City] single-family residential subdivision to the southeast of the Property; and,

4. Connectivity of Property to City:

That the Property abuts land within the incorporate limits of the City of Nampa on its southern and eastern sides and is, therefore, eligible for consideration for annexation; and,

5. Proposed Zoning:

That the BC district is Nampa's "Community Business" Zone, which is Nampa's most commonly used commercial district and is often found in strip development patterns and at roadway intersections throughout the City; there are no minimal bulk regulations associated with said zone; also, a wide range/variety of land uses are permitted or able to be entertained via the Conditional Use Permit review process therein; and,

6. Reasonable:

That it may be variously argued that consideration for annexing and zoning the Property is reasonable given that: a) the City has received an application to annex the Property and amend its official zoning map by the Property owner; and, b) annexation and zoning is a legally recognized legislative and quasi-judicial act long sanctioned under American administrative law; and, c) within the City of Nampa, annexing and zoning assignment is a long standing (and code sanctioned) practice; and, d) other lands in the vicinity of the

Property have been added to the City via annexation with zoning assigned at time of their incorporation; and, e) the Property is eligible by law for annexation and zoning assignment; and, f) that the Applicant intends to develop the Property; and, g) City utility services are available to the Property (see aerial photo with utility lines displayed); and, h) emergency services are available to the Property; and,

7. Public Interest:

That Nampa has determined that it is in the public interest to provide varying commercial development opportunities and diverse commercial land use types within its confines. Expressions of that policy are published in Nampa's adopted Comprehensive/Master Plan, as well as embodied in its decisions to date regarding similar applications; and,

8. Promotion of Zoning Purpose(s):

That among the general (and Nampa endorsed) purposes of zoning is to promote orderly, systematic development and patterns thereof which preserve and/or enhance public health, safety and welfare. Included in our commercial zoning regulations, therefore, are standards governing commercial development which appertain to allowable land uses, building setbacks, building aesthetics, provision of parking and service drives, property landscaping, etc. While a specific plan was not advanced in conjunction with the application set considered by this report, Staff notes that any site development will be regulated by, and through, the design review and building permit review processes because those processes are, by law, associated with land development in a BC Zone. Their imposition and enforcement follows any granted zoning land entitlement (including any Conditional Use Permit that may be requested in connection with entitling use of the Property for a specified use requiring CUP approval post annexation and zoning) and subsequent proposal to construct buildings on a/the site that received the entitlement(s); and,

9. Comprehensive Plan:

Should the Council approve the amendment of the Property's overlying Comprehensive Plan as proposed by the Applicant(s) and noted in this report, then requisite support for the proposed commercial zone would be accordingly provided, and, concerns of "spot zoning" thereby contravened; and,

10. Services:

That utility and emergency services are, or can be made, available to the Property (see aerial photo with utility lines displayed); and,

11. Further, that:

a. Agency/City department comments have been received regarding this matter. Such correspondence as received from agencies or the citizenry regarding this application package [received by noon June 22, 2016] is hereafter attached to this report.

1. City Engineering has no objection(s) concerning the annexation/zoning application, and has provided (a) recommended requirement(s) in the event that Property is annexed/zoned and the proposed Project entitled for development (see attached Engineering Division memorandum); and,

2. Staff has not received commentary from any surrounding property owners or neighbors either supporting or opposing this request.

Note: The preceding general statements are offered as possible [preliminary] findings, and are not intended to be all inclusive or inarguable. They are simply provided to the Commission in the event that the requested entitlements are recommended for approval. Staff notes that development of the Property would not be under the auspice of a rigid infill definition; rather, it is an inclusion of a commercial site in an area still largely regulated to an existing rural residential character and developing suburban residential nature (but also one that is part of a northward expanding projection of City limits which is also transitioning in development/land use character).

In summary, the Property may be zoned BC, but nothing will [ultimately] force the Council to do so as it acts in its quasi-judicial capacity to decide on the proper land use zone/district to assign to the Property. Given the findings noted above, however, BC zoning is certainly an “entertainable” zone and recommend for imposition...

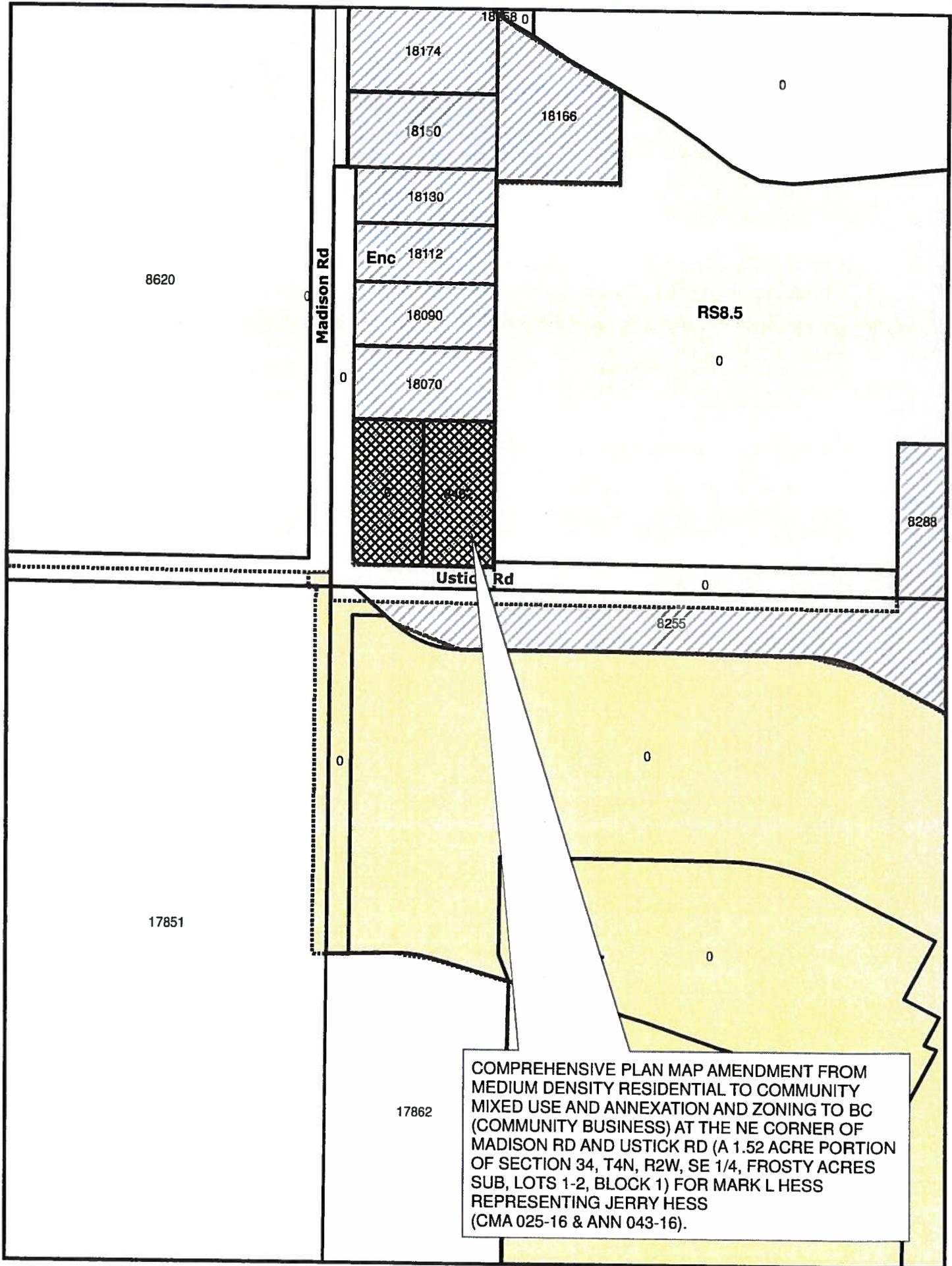
RECOMMENDED CONDITIONS OF APPROVAL

N/A at the time of this report’s publication...

(Right-of-way dedication and property improvement emplacement requirements, as iterated in the Engineering Division memorandum dated June 15, 2016, will be exacted by that Division at time of Property development -- save for right-of-way dedication which will be required to be executed prior to the third reading of the ordinance annexing the Property being executed. A Development Agreement, therefore, is not deemed necessary for this application set by either Planning/Zoning or Engineering Staff.)

ATTACHMENTS

- Copy of Vicinity Map (page/Exhibit 6)
- Copy of Comprehensive Plan Future Land Use Map Amendment application form (page/Exhibit 7)
- Copy of Annexation application form (page/Exhibit 8)
- Copy of aerial photo of depicting Property (page/Exhibit 9)
- Copy of street side Google photo of the Property (page/Exhibit 10)
- Copy of Comprehensive Future Land Use Map section depicting Property and surrounds (page/Exhibit 11)
- “High altitude” copy of Zoning [Vicinity] Map section depicting Property and surrounds (page/Exhibit 12)
- Copy of aerial photo of Property with utility lines shown (page/Exhibit 13)
- Copy of [any] inter-departmental/agency/citizen correspondence (pages)/Exhibits 14+)



COMPREHENSIVE PLAN MAP AMENDMENT FROM MEDIUM DENSITY RESIDENTIAL TO COMMUNITY MIXED USE AND ANNEXATION AND ZONING TO BC (COMMUNITY BUSINESS) AT THE NE CORNER OF MADISON RD AND USTICK RD (A 1.52 ACRE PORTION OF SECTION 34, T4N, R2W, SE 1/4, FROSTY ACRES SUB, LOTS 1-2, BLOCK 1) FOR MARK L HESS REPRESENTING JERRY HESS (CMA 025-16 & ANN 043-16).



APPLICATION FOR AMENDMENT OF COMPREHENSIVE PLAN

City of Nampa, Idaho

6/25 FZ
ROBERT

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This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by a nonrefundable fee of \$421.00 (for 1 acre or less), and \$842.00 (for more than 1 acre) for a map amendment; or \$213.00 for a text amendment.

Name of Applicant/Representative: MARK L. HESS Phone: 249-1577
Address: 519 E Karcher Rd City: Nampa State: ID Zip Code: 83682
Applicant's interest in property: (circle one) Own Rent Other
Owner Name: Jerry Hess Phone: 466-7749
Address: 519 E Karcher Rd City: Nampa State: ID Zip Code: 83682

Address of subject property:

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement.

Subject Property Information

(Please provide one form of the following REQUIRED DOCUMENTATION to complete the amendment):

Original Legal description of property AND a legible WORD formatted document. (Must have for final recording) Old or illegible title documents will need to be retyped in a WORD formatted document

Subdivision Frosty Acres Lot 12 Block 1 Book 19 Page 42

Project Description

State (or attach a letter stating) the requested zoning, the land use change(s) and the reason for the proposed change(s) and the use(s) which will be involved: BC zoning with community mixed use

If this application is for a change of plan text complete the following:

State (or attach a letter stating) the text changes requested, the page numbers in the plan, the reason for the proposed changes and why they would be in the interest of the public (attach the full text of the proposed amendment, as necessary):

Dated this 24 day of May, 20 16

Signature of applicant

NOTICE TO APPLICANT

This application shall be referred to the Nampa Planning Commission for consideration at a public hearing. The Planning Commission will then make its recommendation to the City Council.

If the amendment is recommended for approval a second hearing shall be held before the City Council. If the amendment is recommended for denial you may appeal the decision to the City Council within 15 days from the date of such action by the Planning Commission. At least 15 days prior to each hearing, notice of time and place and a summary of the amendment(s) to be discussed shall be published in the Idaho Press-Tribune. In the case of map amendments notice shall also be posted on the premises not less than 1 week prior to the hearings and notices will be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearings and should be present to answer any questions.

Any person may apply for a plan amendment at any time to correct errors in the original plan or to recognize substantial changes in the actual conditions of an area.

For Office Use Only:

File Number: CMP 25 - 2016 Project Name: M.D. Res to Community Mix Use



APPLICATION FOR ANNEXATION/ZONING City of Nampa, Idaho

This application must be filled out in detail and submitted to the office of the Planning Director for the City of Nampa, Idaho, accompanied by a nonrefundable fee of \$452.00 (for 1 acre or less), and \$910.00 (for more than 1 acre).

Applicant Information

Name of Applicant/Representative: MARK L HESS Phone: 249-1577

Address: 519 E. Karcher Rd City: Nampa State: IDAHO Zip Code: 83682

Applicant's interest in property: (circle one) Own Rent Other

Owner Name: Jerry Hess Phone: 466-7749

Address: 519 E Karcher Rd City: Nampa State: IDAHO Zip Code: 83682

Address of subject property: North east corner of US 20th & MAPLE

Is a copy of one of the following attached? (circle one) Warranty Deed Proof Of Option Earnest Money Agreement.

Subject Property Information

(Please provide one form of the following REQUIRED DOCUMENTATION to complete the legal annexation):

Original Legal description of property AND a legible WORD formatted document. (Must have for final recording)
Old or illegible title documents will need to be retyped in a WORD formatted document

Subdivision Frosty Acres Lot 12 Block 1 Book 19 Page 42

Project Description

State the zoning desired for the subject property: BC

State (or attach a letter stating) the reason for the proposed annexation and any proposed plans for the use of the subject property:

Dated this 24 day of May, 20 16

Applicant Signature

NOTICE TO APPLICANT

This application will be referred to the Nampa Planning Commission for a recommendation on the requested zoning. The Planning Commission shall hold a public hearing and will then make its recommendation to the City Council. The City Council will then hold a second public hearing. Notice of the public hearings must be published in the Idaho Press-Tribune 15 days prior to said hearings. Notice shall also be posted on the premises of the subject property not less than 1 week prior to the hearings. Notices will also be mailed to property owners or purchasers of record within 300 feet of the subject property. You will be given notice of the public hearings and should be present to answer any questions.

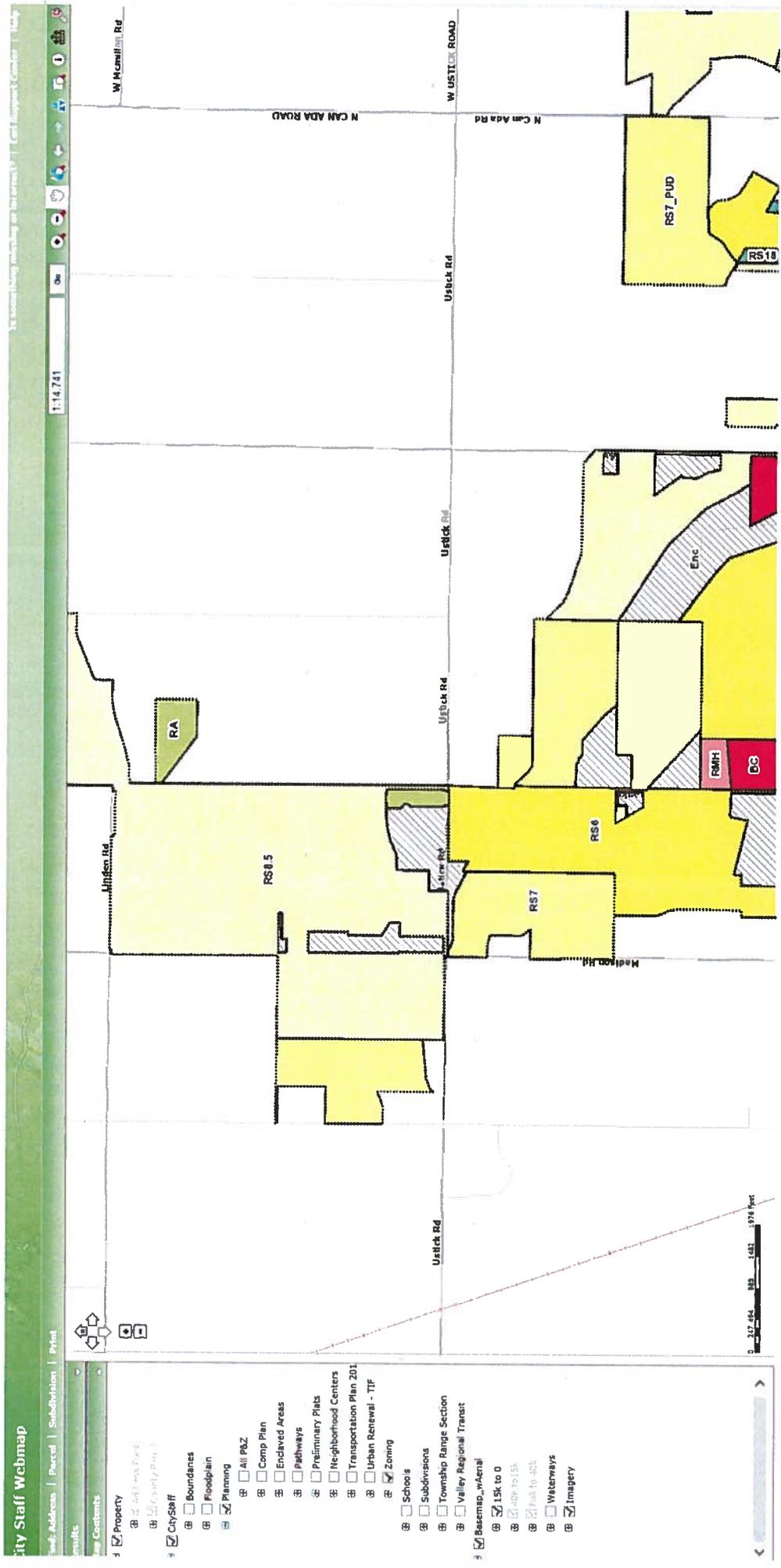
For Office Use Only:
File Number: ANN 43 - 2016 Project Name: _____

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Engineering Webmap

Find: Address | Parcel | Subdivision | Street | Print

12.765

Results

Map Contents

- Property
- Address Points
- County Parcels
- Engineering_All
- Boundaries
- Engineering
- Floodplain
- Functional Classification - 2035
- Planning
- School
- Sewer
- StormDrain
- Streets
- Streets Pavement
- Subdivisions
- Township Range Section
- Traffic
- Valley Regional Transit
- Water Domestic
- Water Irrigation
- Basemap_waerial
- 15K to 0
- 20K to 15K
- 25K to 20K
- Imagery

Memorandum

To: Planning and Zoning

Cc: Tom Points, P. E., City Engineer

Cc: Daniel Badger, P.E., Staff Engineer

Cc: Michael Fuss, P.E., Nampa City Public Works Director

From: Jim Brooks – Engineering Division

Date: June 15, 2016

Rev:

Applicant: Mark Hess representing Jerry Hess

Applicant Address: 519 E. Karcher Road, Nampa, Idaho 83687

Property Location: NE corner Madison Road and Ustick Road

Re: Annexation and Zoning to BC

ANN043-16 for the June 28, 2016 Planning & Zoning Meeting

The Engineering Division has no concerns with the granting of this request with the following conditions:

General:

- Extension of public utilities at owner’s expense –
 - Public water main to satisfy both domestic and fire flow requirements.
 - Sewer as necessary to provide service to any residential lots developed
 - Sewer will be available to serve the site both from Madison and Ustick as it is currently under construction.
 - Pressure Irrigation to provide service to the residential lots and any required landscaping.
 - Gravity Irrigation-Either continued delivery to, or wastewater from adjacent properties
- Annexation into the Nampa Municipal Irrigation System at time of development and site is provided with City Pressure Irrigation.

Ustick Road: Functional Classification - Arterial

- An additional 10’ or right-of-way dedication required for a total 50’ right-of-way for a half of a 100’ arterial right-of-way.
- Full frontage improvements on Ustick Road are required and will include, but not be limited to-
 - Curb, gutter, and sidewalk-will require design and approval
 - Landscaping (as required by zoning for an arterial road)
 - Storm drainage
 - Pavement widening and striping as required

Madison Road: Functional classification - Collector

- Existing right-of-way dedication from Frosty acres plat meets current City requirements. No additional right-of-way dedication required. Full frontage improvements on Madison Road required and will include, but not be limited to-
 - Curb, gutter, and sidewalk-will require design and approval
 - Landscaping (as required by zoning for a collector road)
 - Storm drainage
 - Pavement widening and striping as required