MEMORANDUM

To: Planning & Zoning Commission
From: Robert Hobbs
Date: August 01, 2016
Re: **August 09, 2016 Meeting: Public Hearing Item No. 3 (continued from July 26, 2016)**: Amendment of the following Chapters and Sections of Title 5 Business Licenses, and Title 10 Planning and Zoning (ZTA 004-2016):

- Amending Title 5, Chapter 2, Section 5-2-25, Pertaining to the Obligation to Plant Trees In Connection With One- or Two-Family Residential Building Permits;
- Amending Title 10, Chapter 1, Sections 10-1-2, 10-1-3, And 10-1-18, Respecting Definitions and Figures Provided In the Nampa Comprehensive Zoning Ordinance;
- Amending Title 10, Chapter 1, Section 10-2-8, Providing Procedures for Public Hearings under the Zoning Ordinance;
- Deleting and Replacing Title 10, Chapter 3, Section 10-3-9, Relating To Non-Conforming Uses;
- Deleting and Repealing Title 10, Chapter 7, Section 10-7-10, Pertaining To the Continuation of Agricultural Uses after Reclassification of a RA (Suburban Residential) District;
- Amending Title 10, Chapter 8, Section 10-8-6, Relating To Requirements for Certain Side Yard Setbacks;
- Amending Title 10, Chapter 10, Section 10-10-6, Pertaining To Area, Width and Setback Requirements in Rd (Two-Family [Duplex] Residential) Districts;
- Amending Title 10, Chapter 11, Section 10-11-5 Pertaining To Area, Width and Setback Requirements in RML (Limited Multi-Family Residential) Districts;
- Amending Title 10, Chapter 12, Section 10-12-5, Pertaining To Area, Width and Setback Requirements in RMH (Multi-Family Residential) Districts;
- Amending Title 10, Chapter 13, Section 10-13-5, Pertaining To Area, Width and Setback Requirements In RP (Residential Professional) Districts;
- Amending Title 10, Chapter 16, Section 10-16-5, Pertaining To Area, Width and Setback Requirements in BC (Community Business) Districts;
- Deleting And Repealing Title 10, Chapter 21, Sections 10-21-6 and 10-21-7, Pertaining To Non-Conforming Uses, Violations And Penalties In The Context Of Animal Zoning Regulations;
- Amending Title 10, Chapter 22, Section 10-22-5, Relating To Parking Area Improvements and Plants;
- Amending Title 10, Chapter 23, Section 10-23-20, Relating To Permanent Signs

Permitted In the BC/BF, GB1/GB2, and the IL/IH Zones;

- Amending Title 10, Chapter 25, Sections 10-25-6, 10-25-7, and 10-25-13, Relating To Conditional Use Permit Procedures.

Commissioners, the proposed code amendment omnibus set attached to this memorandum includes one modification to a section of Title 5 that you do not vote on. The balance stemming from Title 10 require your recommendation and are briefly discussed or noted here below. City Engineering has reviewed the language of the amendments and have no issue with the same. Other departments have had access to the amendments but have not formally commented on the same.

Attachment(s):

Pages/Exhibit(s): Attached Code Amendments & Agency/Department Correspondence (pages/Exhibits 9-35)

Section 2.

10-1-2: DEFINITIONS:

The modifications seek to clarify and supplement existing definitions are self-explanatory. As the land use control schedule in Section 10-3-2 distinguishes professional offices as a separate land use type from medical offices/clinics, revamped definitions for each were deemed needful by Staff and City legal counsel. Also, a definition for net floor area (a term used most often when dealing with parking space count issues) was deemed proper for insertion into code.

10-1-3: INTERPRETATION OF TITLE:

The amendment associated with this section purposes the removal of any code reference to private CCRs (covenants, conditions and restrictions) to circumvent any argument being made that the City should enforce private, civil contracts affecting property, and, to not erroneously convey any ideas that City planning and zoning or subdivision codes may override private CCRs or vice versa. Any person or party confronted with both kinds of rules [i.e., the City's and civil] must abide by both -- when those conflict, with the most restrictive.

10-1-18: FIGURES:

Deletion of the solar setback diagrams is desired as the City's solar ordinance was repealed years ago making the Figures obsolete.

Section 3.

10-2-8: PUBLIC HEARINGS:

The language provided is intended to replace, where and as depicted in the attached Exhibit the wording surrounding the conduct of public hearings that address zoning or subdivision related hearing matters. The City has never formerly adopted Robert's Rules of Order or any other parliamentary procedure rule set, and has no intention to do so. City legal counsel has affirmed that the courts understand that, at our level of business, the handling of public testimony may be less formal than in a court setting. While having some basic meeting protocol is desirable to maintain order and decorum, too rigid of a structure can have an intimidating effect on those wishing to present or speak in public. Staff also wanted to inculcate into the code some clarifying language on how appeal hearings are handled before City hearing bodies, which is what started the review of Section 10-2-8 in the first place.

Section 4.

10-3-9: NON-CONFORMING USES:

Rather than confuse City officials or Sterling Codifiers (the company that reviews and codifies Nampa's code changes and then publishes and uploads onto the internet the same), Staff and legal decided to simply delete Section 10-3-9 in its entirety and replace it with the language included hereafter. The largest changes to that section include a re-dating of the City's non-conforming use "cutoff" from May 05, 1971 to April 17, 1989. The 1989 date corresponds to an enactment [really a re-enactment] of Nampa's Comprehensive Zoning Ordinance. Some time ago a code amendment was approved by Nampa's Council that amended the definition of non-conformity to April 17, 1989 to honor that date when our zoning code was most recently repealed and re-enacted. The fact that the code now has two disparate dates was a clerical error effectually, in that the 1971 date was not updated to 1989 in both the definitions section of the code and Section 10-3-9 where non-conforming use regulations are set forth, or, the 1989 date was not redacted instead in a prior amendment so as to leave the 1971 date intact. Since the 1989 date has been in code for a while now, legal counsel felt it proper to correct that disparity.

Also, legal counsel (based on case law) agrees with Staff that the way we treat non-conforming use conversions or roll overs needs to be changed. Rather than specify a process for conversion of one-conforming use type as categorized/listed by Schedule 10-3-2, we should be better protecting legally "grandfatherable" activities/operations and/or aspects of site conditions. Perhaps an excerpt from a letter on this point to an inquiring party will help illustrate, *per se*, the perspective:

"Respecting the Property, we note that the category of principal land use type has changed over time, but the intrinsic condition of non-operative vehicles being stored on the land, repaired on the Property and often towed to or from the site has been a continuous, inherent aspect of its use since before 1971 and 1989, as has the presence of commercial businesses thereon as vouchsafed by the Affidavits and pictorial evidence provided by your attorney. (The number of Property owners or users is really irrelevant as the issue of grandfathering in this matter is relegated to movement of vehicles onto/off of the Property and their storage thereon.) The carry-over of vehicles on the Property continues with your present operation making use of the Property in that respect continuous without "clear intent to abandon" as defined by state statute. We note that had such use of the Property not been an inherent part of its past, *and*, you were converting the non-conforming use of the land in totality from one kind of land use category to another with no transferable common denominators (e.g. vehicle storage or minor repair/bodywork), then a Conditional Use Permit for the conversion would be warranted. (An example of such a CUP type conversion in Nampa might be gutting a large non-conforming house in a commercial zone to use the same for a stand-alone, inexpensive [industrial] storage building.) City legal counsel was consulted recently over this question (and in particular with your Property and its use in mind), and they provided an opinion that this reasoning was sound in light of the principles/law that govern municipalities' treatment of non-conforming uses and our City's code."

Finally, the revised section language also makes clear that the City will not issue permits, approvals or certificates to sanction legal, non-conforming uses; rather, we will simply state whether we recognize the existence of such and our intent to honor the same where they are found to exist. This approach recognizes that grandfather rights are constitutionally derived and not issued/given on consent of a governing authority as a form of permit or license – although recognition of the same is at times handled as a form of application in Nampa like in other jurisdictions.

Section 5.

10-7-10: AG USES AFTER RECLASSIFICATION OF RA DISTRICT:

Associated with the afore-described changes to the City's zoning related non-conforming use provisions, all sections, including the one in § 10-7-10, in conflict with the new standards, or the philosophy that legal non-conforming use should stand until abandoned, this section is proposed for deletion.

Section 6.

10-8-6: PROPERTY AREA, WIDTH, DEPTH, FRONTAGE AND SETBACK REQUIREMENTS:

This code amendment proposes to reset side yard setbacks to require but five feet (5') to either side of a detached single-family home in all RS zoned areas per Council instruction provided some time ago. Staff believes that the, or one of the, main reasons for the old ten foot (10') side yard setback requirement for residential housing properties was to provide City workers with rear yard access to pressure irrigation mains. A side benefit may have been to facilitate getting equipment or emergency crews to rear yard areas or to pre-establish future possible wide driveway access areas that could lead to shops/carports/garages in the back of homes. As new pressure irrigation mains are laid in the front of properties now, and, as those persons wanting clear, wide access to a backyard would not purchase a home with narrow side yards, and, as builders can always/still introduce wide yards onto a plot of land, Staff does not perceive the change as problematic. Further, we are of the opinion that other jurisdictions have similar minimum setbacks comparable to what is now being proposed.

Section 7.

10-10-6: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

See comments from Section 6 above…made applicable to RD zoned areas.

Section 8.

10-11-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

See comments from Section 6 above…made applicable to RML zoned areas.

Section 9.
10-12-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

See comments from Section 6 above...made applicable to RMH zoned areas.

Section 10.

10-13-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

See comments from Section 6 above...made applicable to RP zoned areas.

Section 11.

10-16-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

At present, to buffer [primarily] single-family residential properties from impact by commercial property uses that may lie adjacent to them, the code requires a ten foot (10') setback -- or, in the presence of a sight/site obscuring six foot (6') fence a commercial parking lot with spaces "T-ing" directly into the fence a zero foot (0') setback may be employed. The contemplated revisions to this section proposes to add duplexes or two-unit townhomes into that protective standard. (Three-unit structures, even if "townhomes" are considered by the Building Department as "commercial" buildings, thus a break was made between two and three unit structures in so far as requiring an increased setback.)

Section 12.

10-21-6: NON-CONFORMING ANIMAL USES:

Chapter 21 of the zoning ordinance was written years ago and incorporated legal non-conforming use related language deemed acceptable at the time respecting the care and keeping of animals. As previously explained in Section 4 above, our "grandfathering" rules are proposed for revision to better align with current Idaho Supreme Court case law and our own legal counsel and Staff's views as to how [valid] legal non-conforming uses should be protected, not be amortized, and, disregarded by the City only if clearly abandoned by their possessor or held to be foregone by virtue of their violation.

Section 13.

10-22-5: PARKING AREA IMPROVEMENTS AND PLANS:

On the heels of the creation of the new Health Care (HC) Zone some months ago, alterations to certain parking lot landscaping regulations was requested by City Council. The old standard that required emplacement of parking lot planter interrupts in specified increments in parking banks is still intended to be left in code, but a new standard is being accommodated as an alternative landscaping option. The new standard would allow parking lot planter strips to be placed between the head ends of double stacked parking banks with trees (and even sidewalks) therein (as stated and illustrated in the amendment draft language) in lieu of the occasional stand-alone interrupts.

Section 14.

10-23-20: DISTRICT PERMANENT SIGN ALLOWANCES:

The changes sought for the permanent signage control charts in Chapter 23 are intended as a correction to re-insert language that was somehow dropped out of the charts. The changes are consistent in identifying in the Community and Freeway Business districts as well as the Gateway zones and two of the three Industrial zones what signs are considered "billboards" and that certain of those billboards are only allowed if they are oriented to and on property abutting I-84 proper as per years long past practice and interpretation as well as code. No other changes to sign standards are herewith proposed other than a clarification on tenant space wall signage – that is it may be put on both front and back of buildings as already done in Gateway zones.

Section 15.

10-25-6: CONDITIONAL USE PUBLIC HEARINGS:

Beyond providing a bit of clarification in paragraph A of the section, a change of procedure designed to reduce applicant and City decision maker confusion as well as better synchronize entitlement permit requests being reviewed through the public hearing process, Staff advocates the inclusion in paragraph A the underlined sentence. This will have the effect of causing any Conditional Use Permit (CUP) acted on by the Commission to only be a recommendation when the CUP is necessarily part of a package(d) rezone or annexation request. Expectedly, if adopted, this amendment will help eliminate appeal process problems that occur when a rezone or annexation is given a recommendation by the Commission and an associated CUP is approved or denied only to be then appealed. Such a situation invokes a need to address the appeal in a timely fashion but may cause a timing issue whereby the appeal date may not always coincide with the consideration of the whole entitlement matter (especially the rezone or annexation) by the Council at the same time as the appeal. This was a recent weakness revealed by one or more actions of this type that occurred awhile

back.

10-25-7: ACTION BY COMMISSION:

A reiteration of the above discussed code change and logic, made a necessary part of this section's procedural directions...

10-25-13: ACTION ON APPEALS BY COUNCIL:

Specifies a 300' radius on appeal notice mail-outs...should probably say, "The council, at the next duly held meeting, shall set a date and time for a public hearing on any appeal of the planning and zoning commission's granting or denial of a CUP and notify affected parties and property owners within 300' of the property made the subject of the appeal" versus the language proposed at the moment. Staff requests that if the Council ultimately passes the amendment to this section, that they authorize the change and add in the above underlined characters.

Section 16.

10-33-4: CORRIDOR LANDSCAPING REGULATIONS:

The language in this section is intended to fill in a code gap, if you will, so as to require keeping landscape corridor strips (i.e., those planter areas along main thoroughfares in Nampa) in a code compliant condition, and, if changed, that the conversion be made to meet the landscape code just as if the strip were a new property feature. An example of the need for such a regulation to provide consistency of landscape elements used in our community is found along 12th Avenue South where greenery gave way to expansive use of rock. (Rock may be used at present but in more limited form along our collectors and arterials -- partly due to safety concerns such as rock chips in windshields, their ready availability to be used to vandalize, their scattering into streets creating veritable "road slicks", aesthetic concerns if scattered all over, etc.)

Sections 17-19.

"Legalese"...including a severability clause in the event Council wishes to approve some but not all of the requested amendments as presented.

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Memorandum

To: Planning and Zoning

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

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

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

From: Jim Brooks – Engineering Division

Date: July 15, 2016

Re: Zoning Text Amendment-Various sections Chapters

Applicant: Robert Hobbs-Nampa Planning & Zoning

Applicant Address: 411-3rd Street South, Nampa, Idaho 83651

Parcel Address: NA

ZTA 004-16 for July 26, 2016 Planning & Zoning Meeting

The Engineering Division does not oppose the granting of this request.

ORDINANCE NO. _____

AN ORDINANCE ENACTED BY THE NAMPA CITY COUNCIL, AMENDING TITLE 5, CHAPTER 2, SECTION 5-2-25, PERTAINING TO THE OBLIGATION TO PLANT TREES IN CONNECTION WITH ONE- OR TWO-FAMILY RESIDENTIAL BUILDING PERMITS; AMENDING TITLE 10, CHAPTER 1, SECTIONS 10-1-2, 10-1-3, AND 10-1-18, RESPECTING DEFINITIONS AND FIGURES PROVIDED IN THE NAMPA COMPREHENSIVE ZONING ORDINANCE; AMENDING TITLE 10, CHAPTER 1, SECTION 10-2-8, PROVIDING PROCEDURES FOR PUBLIC HEARINGS UNDER THE ZONING ORDINANCE; DELETING AND REPLACING TITLE 10, CHAPTER 3, SECTION 10-3-9, RELATING TO NON-CONFORMING USES; DELETING AND REPEALING TITLE 10, CHAPTER 7, SECTION 10-7-10, PERTAINING TO THE CONTINUATION OF AGRICULTURAL USES AFTER RECLASSIFICATION OF AN RA (SUBURBAN RESIDENTIAL) DISTRICT; AMENDING TITLE 10, CHAPTER 8, SECTION 10-8-6, RELATING TO REQUIREMENTS FOR CERTAIN SIDE YARD SETBACKS; AMENDING TITLE 10, CHAPTER 10, SECTION 10-10-6, PERTAINING TO AREA, WIDTH AND SETBACK REQUIREMENTS IN RD (TWO-FAMILY [DUPLEX] RESIDENTIAL) DISTRICTS; AMENDING TITLE 10, CHAPTER 11, SECTION 10-11-5 PERTAINING TO AREA, WIDTH AND SETBACK REQUIREMENTS IN RML (LIMITED MULTI-FAMILY RESIDENTIAL) DISTRICTS; AMENDING TITLE 10, CHAPTER 12, SECTION 10-12-5, PERTAINING TO AREA, WIDTH AND SETBACK REQUIREMENTS IN RMH (MULTI-FAMILY RESIDENTIAL) DISTRICTS; AMENDING TITLE 10, CHAPTER 13, SECTION 10-13-5, PERTAINING TO AREA, WIDTH AND SETBACK REQUIREMENTS IN RP (RESIDENTIAL PROFESSIONAL) DISTRICTS; AMENDING TITLE 10, CHAPTER 16, SECTION 10-16-5, PERTAINING TO AREA, WIDTH AND SETBACK REQUIREMENTS IN BC (COMMUNITY BUSINESS) DISTRICTS; DELETING AND REPEALING TITLE 10, CHAPTER 21, SECTIONS 10-21-6 AND 10-21-7, PERTAINING TO NON-CONFORMING USES, VIOLATIONS AND PENALTIES IN THE CONTEXT OF ANIMAL ZONING REGULATIONS; AMENDING TITLE 10, CHAPTER 22, SECTION 10-22-5, RELATING TO PARKING AREA IMPROVEMENTS AND PLANTS; AMENDING TITLE 10, CHAPTER 23, SECTION 10-23-20, RELATING TO PERMANENT SIGNS PERMITTED IN THE BC/BF, GB1/GB2, AND THE IL/IH ZONES; AMENDING TITLE 10, CHAPTER 25, SECTIONS 10-25-6, 10-25-7, AND 10-25-13, RELATING TO CONDITIONAL USE PERMIT PROCEDURES BEFORE THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

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BE IT ORDAINED by the Mayor and Council of the City of Nampa, County of Canyon, State of Idaho:

Section 1. That Title 5, Chapter 2, Section 5-2-25, pertaining to the obligation to plant trees in connection with one- or two-family residential building permits, be amended, as follows:

5-2-25: BUILDER'S PERMIT TREE OBLIGATION:

To provide for an aesthetically attractive and healthy urban forest within the city of Nampa, each applicant applying for a new one- or two-family residential building permit shall plant a minimum of two (2) 1-inch caliper (as measured 6 inches above the ground) trees in accordance with the regulations set forth hereinafter:

. . .

B. Attached Sidewalk: Where an attached sidewalk abuts a property's front yard upon which a new one- or two-family residential structure is being built:

. . .

5. If mature trees already exist on the subject property, the obligation to plant two (2) trees on the property in the front yard may be considered by the city as satisfied.

If trees are not able to be planted at the time of occupancy (e.g., due to weather constraints) ~~due to weather constraints~~, the permit applicant will be issued a self-certification correction notice acknowledging the applicant's legal responsibility to plant said trees within four (4) months of being issued the certificate of occupancy. All self-certification correction notices will be forwarded to the parks department for verification and to code enforcement, as necessary, for follow up enforcement.

. . .

Section 2. That Title 10, Chapter 1, Sections 10-1-2, 10-1-3, and 10-1-18, of the Nampa City Code, setting forth definitions for terms used in the Nampa Comprehensive Zoning Ordinance, and figures related thereto, be amended by alphabetical insertion of, or amendment to, the definitions listed below, and removal of Figures 7, 10 and 11, as follows:

10-1-2: DEFINITIONS:

. . .

CLINIC (MEDICAL/DENTAL/HEALTH CARE): A ~~building~~ property designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, or for the provision of other health care related services.

. . .

NET FLOOR AREA: Gross square feet of a building, minus the following square footage: floor area devoted to accessory water tanks and cooling towers or HVAC equipment, attic space with headroom of less than seven feet six inches (7'6"), exterior steps or stairs, terraces, breezeways and open spaces (such as lobbies, unless adjoining customer service counter space), closets (including utility/janitorial), bathrooms, break rooms, hallways, fire riser rooms or other spaces determined to be exempt by the Planning and Zoning Director.

. . .

NON-CONFORMING BUILDING/USE/SITUATION: A building, land use or site situation/condition which is not permitted or is non-compliant (e.g., a setback, parking stall count, paving or landscaping provision) according to the regulations of the zone/district in which it is located, but which was permitted by, or conformed to, requirements of ~~or preexisted~~ a pre-existing zoning ordinance in effect prior to Ordinance number 2140's adoption on April 17, 1989.

. . .

PROFESSIONAL OFFICES: Offices maintained and used as a place of business ~~conducted by persons engaged in the healing arts for human beings, such as doctors and dentists (but wherein no overnight care for patients is given), and by~~ for professionals including, but not limited to, engineers, attorneys, architects, certified or licensed public accountants, landscape architects and other design services, management services, occupational therapists, geologists, surveyors, real estate agents, realtors, financial planners or advisors, appraisers, social workers, and other persons providing services that commonly require specialized training or professional certification. Professional Offices do not include offices maintained and used as a place of business for medical, dental or health care related professions, which are addressed under the definition for CLINIC (MEDICAL/DENTAL/HEALTH CARE).~~utilizing training in a knowledge of the mental discipline as distinguished from training in occupations requiring mere skill or manual dexterity or the handling of commodities.~~

. . .

10-1-3: INTERPRETATION OF TITLE:

The provisions of this title shall be interpreted and applied as the minimum requirements for the promotion of the public health, safety, convenience, general welfare and other purpose.

~~Where a covenant, deed restriction, or health officer of the city, county, state or United States has jurisdiction in the city, it is not the intention of this title to interfere with requirements more strict than those contained in this title. Where this title imposes a greater restriction upon the use of buildings, it shall govern.~~

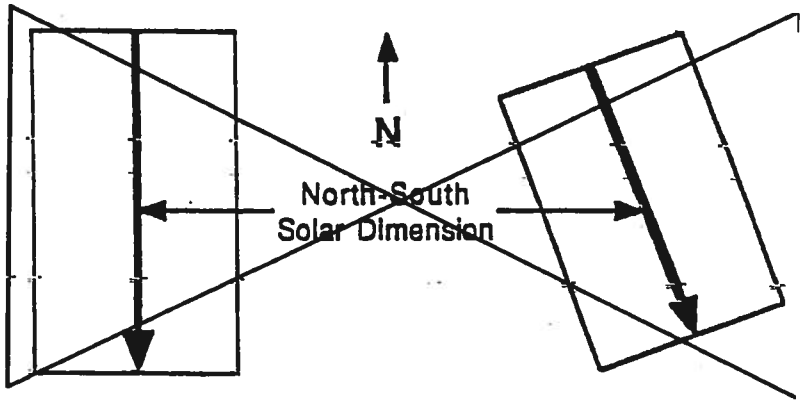
~~Any covenants, conditions, restrictions that are in conflict with ordinances of this title or conditions of approval issued/ordered/imposed against a property, project, development, subdivision, PUD or use by the city by virtue of its authority shall be considered invalid by the city insofar as enforcement of the provisions of this title or the conditions of approval are concerned. Correspondingly, provisions, terms, conditions, etc., of covenants, conditions, and restrictions recorded against a property, project, development, subdivision, PUD, or use in Nampa after receiving land/structure use entitlement from the city shall be drafted to be in harmony with city ordinances or conditions of approval issued/ordered/imposed by the city if the covenants, conditions and restrictions are to be effective.~~

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this title and/or any other code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the validity of other parts, sections, subsections, paragraphs, subparagraphs, sentences, phrases, clauses, terms, or words of this title and/or any other code provisions and/or laws contained in this title (including the prohibition on billboards contained herein).

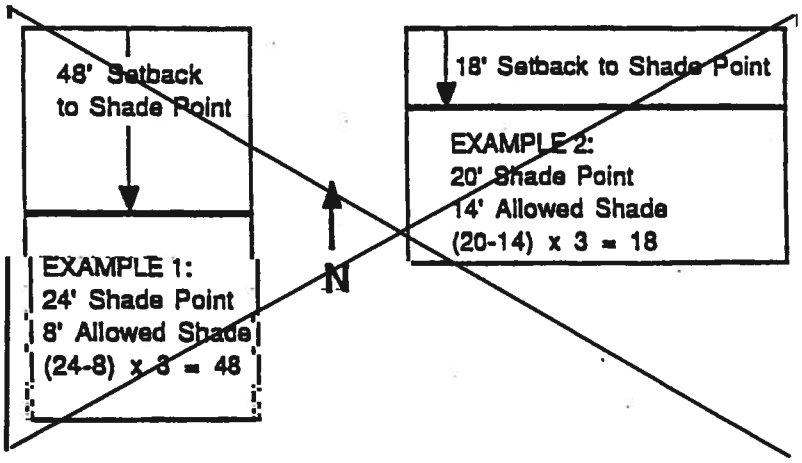
10-1-18: FIGURES:

. . .

~~FIGURE 10 - NORTH SOUTH SOLAR DIMENSION~~ (RESERVED)



~~FIGURE 11 - SOLAR SETBACK~~ (RESERVED)



Section 3. That Title 10, Chapter 2, Section 10-2-8, of the Nampa City Code, at Subsection C, providing procedures for public hearings in the context of enforcement and administration of the Nampa Comprehensive Zoning Ordinance, be amended, as follows:

10-2-8: PUBLIC HEARINGS:

...

C. Hearing Procedures: The following sequence of events shall be followed/used during public zoning hearing(s):

1. Call to Order: The mayor, presiding council person, planning chairperson, or presiding commissioner (all hereinafter a.k.a. "presiding officer") shall explain the meeting's hearing procedures thereby setting forth the rules under which the public meeting shall be conducted, and shall announce the amount of time to be allotted to speakers. ~~At the commencement of the hearing, the presiding officer may establish and announce a time limit to be observed by all speakers. If a specific time limit is not given to the attending audience, then initial presentation~~

~~by the applicant shall be limited to seven (7) minutes, and persons from the audience to three (3) minutes each. Persons representing groups may be given more time than individuals presenting their own views.~~

2. Allotted Speaker Times:

a. Standard Hearing Item Speaking Times: At the commencement of the hearing, the presiding officer may establish and announce a time limit to be observed by all speakers. If a specific time limit is not given to the attending audience, then initial presentation by the applicant or his representative shall be limited to seven (7) minutes, persons from the audience shall be limited to three (3) minutes each, and closing applicant's rebuttal or concluding comments shall be limited to five (5) minutes. Persons representing groups may be given more time than individuals presenting their own views, if allowed by the meeting's chair. City staff shall be given sufficient time to present their report(s).

b. Items on Appeal Speaking Times: At the commencement of the hearing, the presiding officer may establish and announce a time limit to be observed by all speakers. If a specific time limit is not given to the attending audience, then initial presentation by the appellant shall be limited to seven (7) minutes, city staff shall time as they require, the appellee/respondent, if any, shall then have seven (7) minutes, persons from the audience shall be limited to three (3) minutes each, closing appellant's concluding comments shall be limited to five (5) minutes and concluding appellee's/respondent's concluding comments shall be limited to five (5) minutes. Persons representing groups may be given more time than individuals presenting their own views if allowed by the meeting's chair providing that if more time is allotted to either the appellant or appellee/respondent, then the opposing side shall be afforded equal time to rebut.

3. Hearing Protocol:

~~2.~~a. The applicant(s) or appellant(s) and/or their representative(s) may present their case. During such presentation or immediately following it, the council or commission may ask their questions of the applicant(s) and/or their representative(s). Applicants or appellants are encouraged to be or have a representative present to convey their desires and justifications as related to their request and/or to answer questions.

~~3.~~b. City planning and zoning staff shall present their findings regarding the matter at hand.

~~4.~~c. Written correspondence shall be officially recognized and accepted as part of the hearing record for the matter at hand under review.

~~5.~~d. The council or commission shall then receive testimony from those persons supporting the application. No person shall be permitted to speak at a public hearing until the presiding officer has recognized such person. Each person testifying shall be limited to three (3) minutes per

person (unless made more or less by the conducting officer following official announcement of the same at the start of the hearing).

~~6.~~e. The council or commission shall then receive testimony from those persons uncommitted/neutral regarding the proposal/application. ~~Each person testifying shall be limited to three (3) minutes per person (unless made more or less by the conducting officer following official announcement of the same at the start of the hearing).~~

~~7.~~f. The council or commission shall then receive testimony from those persons opposing the application. ~~Each person testifying shall be limited to three (3) minutes per person (unless made more or less by the conducting officer following official announcement of the same at the start of the hearing).~~

~~8.~~g. The applicant(s) and/or their representative(s) shall then be allowed to rebut statements previously made by any person who testified.

~~9.~~h. The presiding officer shall then close the public hearing to further testimony and allow initiation of deliberations on the matter at hand. They may also ask or receive any code interpretation or procedural questions of, or from, the city staff as deemed warranted. ~~In other words, after the council or planning commission closes a hearing, no new public/staff comments shall be received unless in direct response to a question put forth to them by the commission or council.~~

If, however, the commission, or council, reopens the hearing by vote, then they may take further public testimony. In so doing, they shall provide for rebuttal time by the public and the applicant(s) or appellant(s) and/or their representative equal to that expended by any that speak on the record in support of, or opposition to, the application(s) under consideration.

~~10.~~i. The attending/governing board shall then vote on the item once deliberations have ceased.

~~11.~~4. Continuance/Recess: If all sides of the issue cannot be heard in the time allotted, the hearing may be recessed to a later time during the same meeting stated by the chairperson. Persons not having had an opportunity to be heard may sign a roster in order to secure their opportunity to speak at the time stated.

~~12.~~5. Compliance Required: Any person not conforming to these procedures may be prohibited from speaking during a public meeting. Should any person refuse to comply with such prohibition, they may be removed from the room by order of the presiding officer.

D. Other Hearing Conduct Rules:

. . .

~~5. Voting on items shall be executed with some organization such as that espoused by "Robert's Rules of Order."~~

Section 4. That Title 10, Chapter 3, Section 10-3-9, of the Nampa City Code, relating to nonconforming uses, be deleted in its entirety, and replaced with the following, new Section 10-3-9, relating to nonconforming uses:

10-3-9: NONCONFORMING USES:

Legal, non-conforming (aka "grandfathered") uses or situations shall be considered those wherein a lawful use of land or the physical improvements (i.e., the "site situation") thereon existed on and before April 17, 1989, or prior to a rezone, annexation or zoning code change that occurred subsequent to that date. Thus, although a use or site situation does not currently conform with regulations specified by this title for the district in which such land is presently located, it may be continued subject to the provisions of this section.

A. Maintenance Or Expansion Of Structures Occupied By Non-conforming Uses: Non-conforming use(s) of structures may be maintained subject to the following conditions (provided said structure is not abated or specifically regulated by this and other chapters of this code):

1. A non-conforming use of a structure shall not be expanded in any manner except as follows:

a. Additions or enlargements to a non-conforming structure may be made provided that they cause the structure to be made (more) code compliant (in accordance with the city's adopted building code) and do not have the effect of further reducing zoning code compliance.

b. Additions or enlargements to existing dwellings, churches and schools if such buildings otherwise conform to the regulations then in effect for the district in which located, including height, yard and area provisions.

(Nothing in this section shall be deemed to prevent the repair or maintenance of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety.)

B. Repair Or Replacement Of Structures Occupied By Or In Operation As, Non-conforming Uses:

1. Whenever, in any district, a structure being occupied as or by a non-conforming use is damaged or destroyed to the extent of fifty percent (50%) or less of its replacement value by fire, explosion or other casualty, it may be restored and any lawful occupancy or use of such structure, or part thereof, which existed at the time of such partial destruction may be continued, if such restoration is started within a period of twelve (12) months of such damage or destruction and is diligently completed.

2. In the event such damage or destruction exceeds fifty percent (50%) of the replacement value of a structure, no repairs or reconstruction shall be thereafter made unless every portion of such structure is made to conform to the height, yard, parking area and use regulations of the district within which it is located.

a. The planning director or his/her designee, by issuing a rebuild letter or permit, may grant an exception to the fore-going use reconstruction/replacement restriction standard in order to allow for the reconstruction or replacement of single-family residential structures in non-residential zones upon finding that apparent commercial or industrial development in the area surrounding the non-conforming location is slow or non-existent.

b. In the case of non-single-family residential structures, the planning director or his/her designee, by issuing a rebuild letter or permit, may grant an exception to the above use reconstruction/replacement restriction standard in order to allow for the reconstruction or replacement of a non-single-family residential structure -- provided that the city's council first issues a variance permit to authorize creation of the rebuild letter.

C. Non-conforming Use Of Land In Any District:

1. A non-conforming use of land shall not be expanded (i.e., in its area of effect or non-code compliant condition(s)).

2. In cases where the non-conforming use of the land is actually a situation where certain site improvements or conditions/situations are either lacking or non-conforming to zoning code, then the property's condition/situation shall be considered eligible for legal non-conforming use status provided extant or deficient improvements were determined to be absent prior to April 17, 1989, or, prior to the enactment of a zoning based law that made them non-conforming, and, that no worsening of their non-compliance is contemplated.

D. Conversion Of One Non-Conforming Use To A Different Category of Non-Conforming Land Use: Conversion of a non-conforming use of the land identified in Schedule/Table 10-3-2 to another land use type in that same schedule shall not be allowed. This does not preclude, however, the City's recognition of non-conforming aspects of a use (e.g., its past operations, site condition, etc.) being enjoyed by a successor party in interest to the property.

E. Existing Uses; Occupancy Permit: An occupancy permit is granted hereby, so as to permit the continuation of the particular existing uses of any structure, improvement or premises existing in the respective districts immediately prior to April 17, 1989.

F. Rezones: Whenever a zone change (i.e., rezone) occurs, any uses or situations that were allowed by conditional use permit in the original zone but could not be applied for under conditional use allowances in the new zone shall be considered legally nonconforming uses or situations. Notwithstanding, such permits shall remain valid for the length of time specified by the commission when they were originally considered or else shall be considered approved indefinitely -- unless the conditional use associated with them is revoked.

G. Abandonment/Vacancy: In accordance with state law, the city shall not enact any ordinance or resolution which deprives an owner of the right to use improvements on private property for their designed purpose based solely on the non-use of the improvements for their designed purpose for a period of ten (10) years or less. Where an owner or his authorized agent permits or allows an approved or unlawful intervening primary use of an/the owner's property, the protection provisions of this section shall be deemed/rendered non-applicable.

1. If non-use of a property or structure continues for a period of one year or longer, the city may, by written request, require that the owner declare their intention with respect to the continued non-use of the improvements in writing within twenty eight (28) days of receipt of the request. If the owner elects to continue the non-use, they shall notify the city in writing of their intention and shall post the property with notice of their intent to continue the nonuse of the improvements. They shall also publish notice of their intent to continue the non-use in a newspaper of general circulation in Canyon County. If the property owner complies with those requirements, their right to use such improvements in the future for their designed purpose shall continue, notwithstanding any change in the zoning of their property.

2. The property owner may voluntarily elect to withdraw the use by filing with the city clerk an "affidavit of withdrawn use". If the property is redesigned for a different use, the property owner shall be

deemed to have abandoned any legal non-conforming right to prior use of the property. The affidavit may be forwarded to the city planning and zoning office for review and recordkeeping.

3. For purposes of this section, "designed purpose" means the use for which the improvements were originally intended, designed and approved pursuant to any applicable planning and zoning ordinances.

4. The provisions of this section shall not be construed to prohibit the city from passing or enforcing any other law or ordinance for the protection of the public health, safety and welfare.

5. Action by the city to cause a non-conforming use or situation to be eliminated may be pursued when it is believed said use or site situation is/was illegally commenced, operated or utilized. No statute of limitations shall apply to the city in such situations.

H. Acknowledgement Of Legal Non-conforming Use Rights: Applications to request the city to recognize/acknowledge legal non-conforming use rights shall be made with the office of the planning and zoning department using a form prescribed by the planning director. The request shall be accompanied by such information as may be required by the director to enable a determination together with a non-refundable filing fee in an amount established by resolution of the city council.

Section 5. That Title 10, Chapter 7, Section 10-7-10, pertaining to the continuation of agricultural uses after reclassification of an RA (Suburban Residential) District, be deleted and repealed in its entirety.

Section 6. That Title 10, Chapter 8, Section 10-8-6, of the Nampa City Code, at Subsection D, relating to requirements for side yard setbacks for properties that lack alley access to the rear yard area, be amended, as follows:

10-8-6: PROPERTY AREA, WIDTH, DEPTH, FRONTAGE AND SETBACK REQUIREMENTS:

. . .

D. Minimum Property Structure And Parking Interior (Side/Rear) Yards: Shall be five feet (5') wide/deep, except where a utility easement is recorded adjacent to a side property line, there shall be provided a side yard (setback) at least the width of the easement on the development site or five feet (5'), whichever is greater. Where a utility easement is recorded adjacent to a rear lot line, the rear interior yard (setback) shall be the width of the easement on the development site or five feet (5'), whichever is greater.

For a property abutting an alley the required rear yard setback shall be fifteen feet (15') from the centerline of that alley.

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~~All properties used for single-family detached dwellings that lack alley access to their rear yards shall have a minimum ten foot (10') side yard setback on/along one side of the property (to provide access to the rear yard).~~

. . .

Section 7. That Title 10, Chapter 10, Section 10-10-6, of the Nampa City Code, at Subsection E, pertaining to property area, width and yard setback requirements in RD (Two-Family [Duplex] Residential) Districts, be amended, as follows:

10-10-6: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

. . .

E. Minimum Interior Yard Setback: Minimum property interior (side/rear) yard setbacks shall be not less than five feet (5') wide/deep ~~(except for single-family detached houses as noted below)~~. Where a utility easement is recorded adjacent to a side property line, there shall be provided a side yard (setback) no less than the width of the easement or five feet (5') whichever is greater. Where a utility easement is recorded adjacent to a rear property line, the rear interior yard (setback) shall be no less than the width of the easement on the development site or five feet (5'), whichever is greater.

~~All properties used for single-family detached dwellings that lack alley access to their rear yards shall have a minimum ten foot (10') side yard setback on/along one side of the property (to provide possible access to the rear yard).~~

. . .

Section 8. That Title 10, Chapter 11, Section 10-11-5, of the Nampa City Code, at Subsection E, pertaining to property area, width and yard setback requirements in RML (Limited Multi-Family Residential) Districts, be amended, as follows:

10-11-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

. . .

E. Minimum Interior Yard Setback: Minimum property interior (side/rear) yard setbacks shall be not less than five feet (5') wide/deep ~~(except for single-family detached houses as noted below)~~. Where a utility easement is recorded adjacent to a side property line, there shall be provided a side yard (setback) no less than the width of the easement or five feet (5') whichever is greater. Where a utility easement is recorded adjacent to a rear property line, the rear interior yard (setback) shall be no less than the width of the easement on the development site or five feet (5'), whichever is greater.

~~All properties used for single-family detached dwellings that lack alley access to their rear yards shall have a minimum ten foot (10') side yard setback on/along one side of the property (to provide possible access to the rear yard).~~

For a lot abutting an alley the required rear yard space shall be fifteen feet (15') from the centerline of that alley.

. . .

Section 9. That Title 10, Chapter 12, Section 10-12-5, of the Nampa City Code, at Subsection E, pertaining to property area, width and yard setback requirements in RMH (Multi-Family Residential) Districts, be amended, as follows:

10-12-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

. . .

E. Minimum Property Interior Yards Required: All properties in the RMH district shall have interior yards of not less than eight feet (8') wide/deep, for structures not higher than three (3) stories or thirty feet (30'). For every ten feet (10') in height over which a building exceeds three (3) stories or thirty feet (30'), the building shall be set back an additional five feet (5') from side lot lines. In no case shall the distance between the rear lot line and the building be less than half the height of the building for structures higher than three (3) stories or thirty feet (30') tall.

For a lot abutting an alley, the required rear yard setback shall be fifteen feet (15') from the centerline of that alley.

In any situation where there are easements along and parallel to a particular property line that partially defines a property that are wider/deeper than the afore-noted required yards/setbacks, then the required setback(s) will become the width of the pertinent easement section in lieu of the above stated setbacks. It is understood that the normal setback would thus be located within the scope of the easement's dimensions/area. For example, if there is a twelve foot (12') easement along the rear of a property in the RMH zone, and the rear setback is eight feet (8') then the required rear yard setback would become twelve feet (12') instead of eight (8).

~~All properties used for single-family detached dwellings that lack alley access to their rear yards shall have a minimum ten foot (10') side yard setback on/along one side of the property (to provide possible access to the rear yard).~~

. . .

Section 10. That Title 10, Chapter 13, Section 10-13-5, of the Nampa City Code, at Subsection E, pertaining to property area, width and yard setback requirements in RP (Residential Professional) Districts, be amended, as follows:

10-13-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

. . .

E. Interior Yard And Parking: All properties in the RP district shall have interior yard structure and parking setbacks of not less than eight feet (8') wide/deep.

On a property abutting an alley, the required rear yard (setback) shall be fifteen feet (15') wide/deep as measured from the centerline of the alley.

~~All properties used for single-family detached dwellings that lack alley access to their rear yards shall have a minimum ten foot (10') side yard setback on/along one side of the property (to provide possible access to the rear yard).~~

. . .

Section 11. That Title 10, Chapter 16, Section 10-16-5, pertaining to property area, width and yard setback requirements in BC (Community Business) Districts, be amended, as follows:

10-16-5: PROPERTY AREA, WIDTH AND YARD REQUIREMENTS:

The following minimum requirements shall be observed:

. . .

D. Interior Yards: Properties within the BC district are not/shall not be required to provide interior yards (setbacks) if said properties abut property lines of commercially or industrially zoned property. When property lines of a property zoned BC abut property ~~residentially~~ zoned single or two-family residential, interior yards (setbacks) not less than ten feet (10') wide/deep shall be required against the residential district.

~~However,~~Exception: when an intervening ~~site/~~sight obscuring fence at least six feet (6') tall that obscures visibility of a parking lot is placed between ~~abutting commercial~~ that commercially zoned property and an adjoining single or two-family residential zoned property~~ies~~, then a zero foot (0') setback ~~applies/~~may be allowed in order to separate/screen the commercial ~~lot's/parcel's~~ property's parking lot from the ~~residential~~ residentially zoned property.

. . .

Section 12. That Title 10, Chapter 21, Section 10-21-6, pertaining to non-conforming uses in the context of animal zoning regulations, and Section 10-21-7, pertaining to violations and penalties in the context of animal zoning regulations, be deleted and repealed in their entirety.

Section 13. That Title 10, Chapter 22, Section 10-22-5, of the Nampa City Code, relating to parking area improvements and plans, as follows:

10-22-5: PARKING AREA IMPROVEMENTS AND PLANS:

...

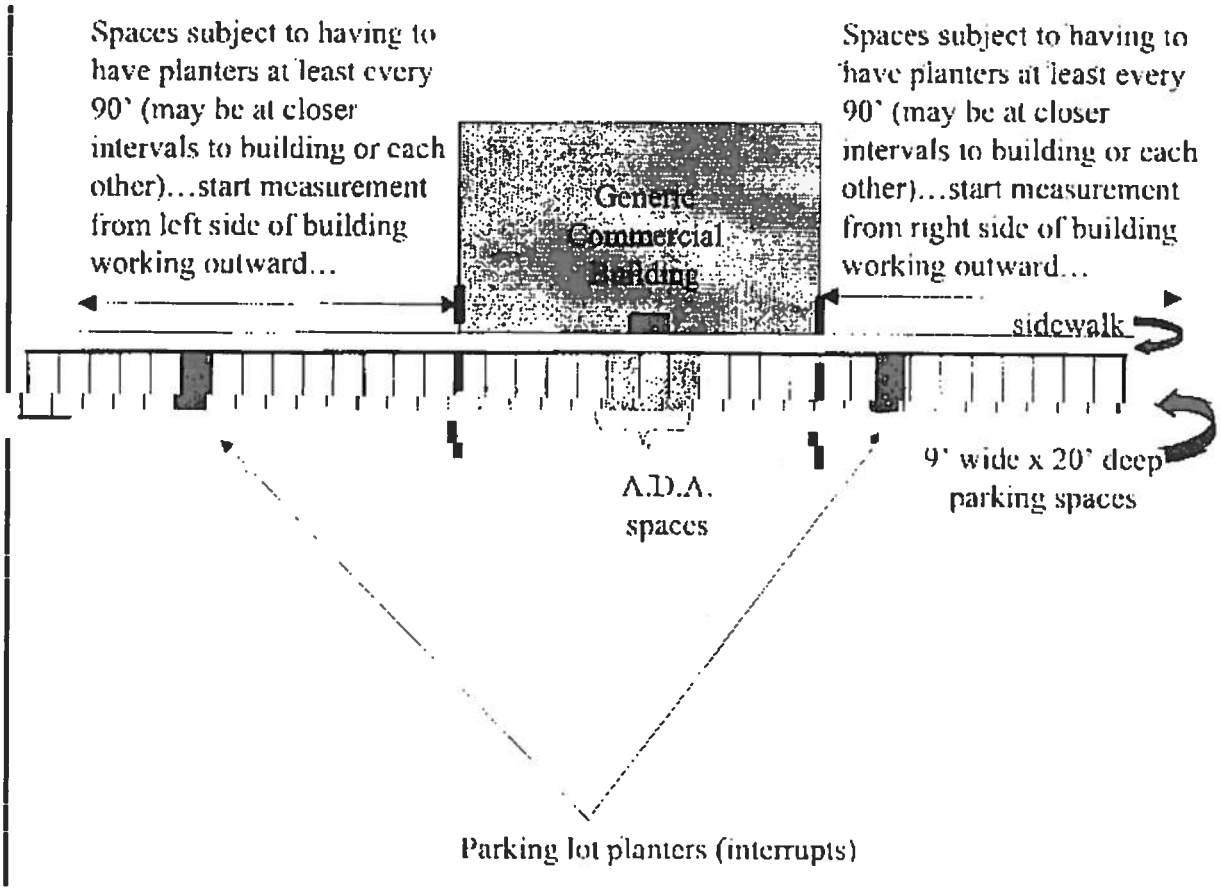
J. Parking Lot Landscaping Development Standards: All parking areas shall include landscaping as stipulated in this chapter.

...

6. Interior Parking Lot Planters: Interior parking lot planters (with curbed surrounds) are required as visual landscaping interruptions in parking rows/banks.

a. Landscape Planter Spacing: Interior parking lot planters shall be located at intervals not to exceed ninety feet (90') within each parking bank except for any parking bank/row located immediately fronting/against any principal commercial or industrial (termed commercial collectively) building on a ~~site~~ property and between the limits/span of its exterior side walls, for which such placement is optional.

If a parking bank that abuts the front entry area of such a building extends past the outside walls of the building, then planters shall be required where any continuous ninety foot (90') parking space intervals are found past the building walls. Refer to the following illustration:



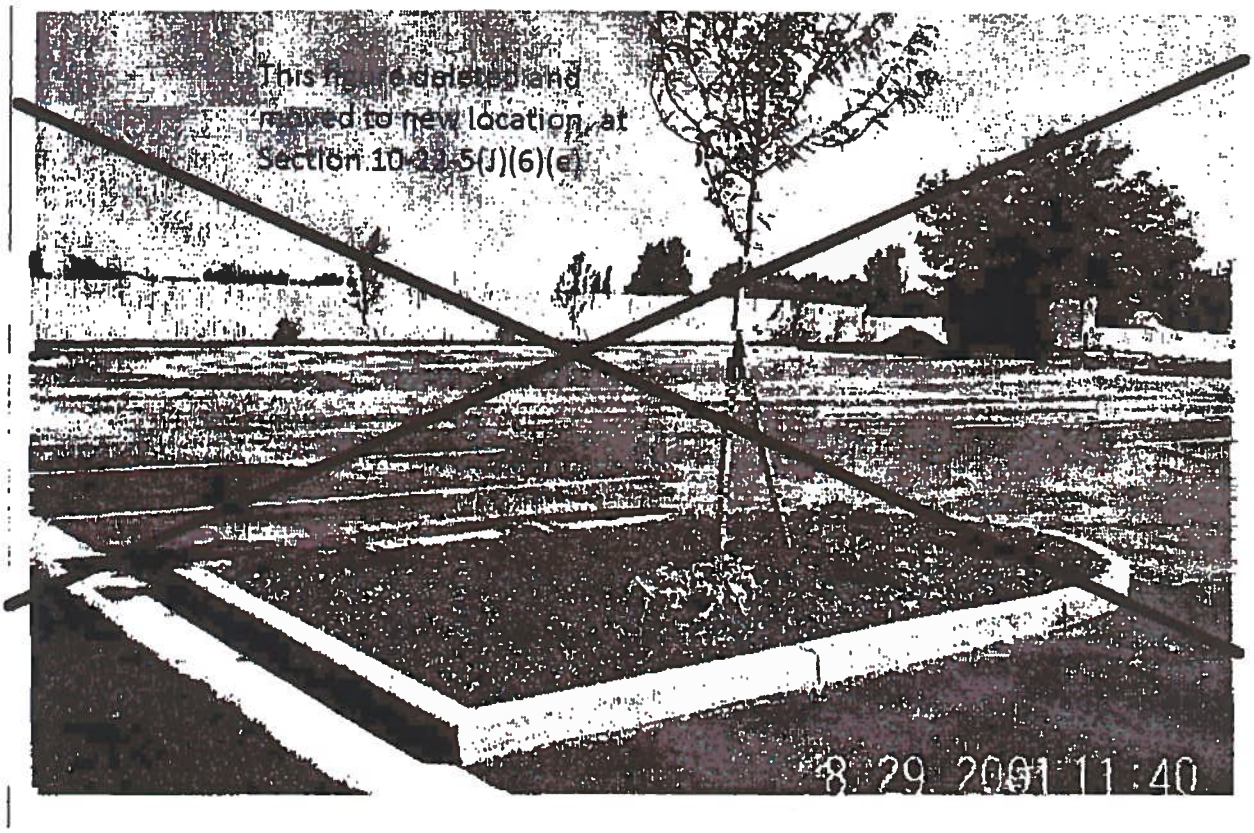
b. Parking Bank Interrupt-Style Landscape Planters' Content(s): Each single interior interrupt-style planter shall contain one 1.5-inch caliper deciduous shade tree as may be selected by the developer or property or project manager or owner, provided such tree(s) will grow on/from a single trunk and be at least fifteen feet (15') tall at maturity (see "Image (Example #1)" of this section). Interior parking lot planters shall also contain some combination of decorative rock and/or shrubbery and/or lawn and/or bark.

c. Landscape Planters' Dimensions: Interior planters shall be of equivalent size, dimensions and angle of the parking stalls that surround them in the same parking bank. For example, if located in a single row of ninety degree (90°) oriented parking spaces that are nine feet (9') wide by twenty feet (20') deep/long, a landscape planter would also need to be nine feet (9') wide and twenty feet (20') deep.

Where two (2) parking rows adjoin each other "head to head", back to back planters may be situated, or they may be

separated. If placed back to back in, for example, a pair of ninety degree (90°) oriented parking rows, then the resulting planters would likely appear to be a single nine foot (9') wide by forty foot (40') deep/long planter.

~~A one foot (1') cutout (preferred) or six (6) to eight foot (8') culvert pipe (less preferred) may be used at the end of or within a parking planter's abutment against a curb or other barrier in order to facilitate site drainage (e.g., stormwater flow across a parking lot into a drain). (See "Image (Example #1)" of this section.):~~



d. Exception: In lieu of parking bank interim interrupt-style planters, landscape strips as detailed in Figure X1 below may, instead, be emplaced between doubled parking banks. Within such landscape strips [when used], 3" caliper deciduous shade trees from the species listed in Table X3 shall be planted every 40' on center running laterally through the strip.

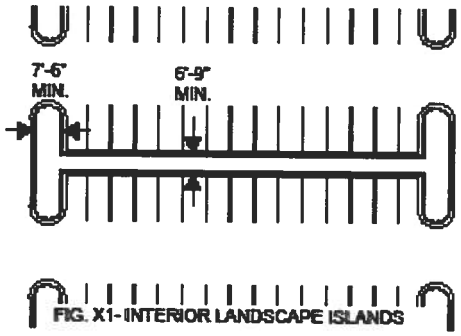


FIG. X1- INTERIOR LANDSCAPE ISLANDS

e. Drainage Channel: A one foot (1') cutout (preferred) or six (6) to eight foot (8') culvert pipe (less preferred) may be used at the end of or within a parking planter's abutment against a curb or other barrier in order to facilitate site drainage (e.g., stormwater flow across a parking lot into a drain). (See "Image (Example #1)" of this section):

Image (Example #1)

~~d.~~f. Planters' Contribution To Parking Lot Landscaping: At least five percent (5%) of a parking lot area (i.e., area devoted to parking stalls and maneuvering/back up/service drive(s)) shall be landscaped in/around the same. The area(s) of interior parking lot planters as well as any immediate perimeter landscaping (e.g., that lies immediately around,

abutting, or within required setback/yard areas) shall count toward providing the five percent (5%) ~~as approved by planning and zoning staff~~.

~~e.~~g. Landscaping Irrigation, Generally: All landscaping emplaced in conjunction with new development shall be irrigated with an underground sprinkler system. Said system will be designated to minimize watershed onto adjoining public right(s) of way. Properties being renovated and/or upgraded to meet site development codes may utilize either underground or some kind of aboveground system (e.g., watering with hose).

Section 14. That Title 10, Chapter 23, Section 10-23-20, of the Nampa City Code, at Subsection D, relating to Permanent Signs Permitted in the BC/BF Zones, the GB1/GB2 Zones, and the IL/IH Zones, be amended, as follows:

10-23-20: DISTRICT PERMANENT SIGN ALLOWANCES:

. . .

TABLE 10-23-20(B)
PERMANENT SIGNS PERMITTED IN THE BC/BF ZONES[1]

Type Of Sign	Number Allowed	Maximum Allowable Height Above Grade	Maximum Display Surface Area Per Establishment	Spacing And Location[1]	Illumination[4]
Freestanding pole, monument or projecting[2]	1 per street[3]	25'	$1^1/_2$ sq. ft. per linear foot of street frontage or 200 sq. ft. maximum, whichever is more restrictive		Indirect, internal
Freestanding pole, monument or projecting[2] billboard	1 per street[3]	40'	$1^1/_2$ sq. ft. per linear foot of street frontage or 300 sq. ft. maximum, whichever is more restrictive		Indirect, internal
Freestanding pole, billboard	1 per lot	40'	672 sq. ft. maximum	Only if oriented to, and on property abutting, I-84	Indirect, internal
Wall or marquee	1 or more[2]	5' above building	25% of building or tenant wall space (as pertinent)		Indirect, internal

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Notes:
1. If not noted, see section 10-23-3 of this chapter for general provisions and section 10-23-7 of this chapter for exemptions.
2. The combined maximum sign area for these signs shall not exceed the total area.
3. 1 additional sign per street may be allowed when street frontage exceeds 500 feet and signs are at least 300 feet apart.
4.Not to be confused with or construed as the presence of an electronic reader board message center component in a sign.

. . .

TABLE 10-23-20(E)
PERMANENT SIGNS PERMITTED IN THE GB1/GB2 ZONES[1]

Type Of Sign	Number Allowed	Maximum Allowable Height Above Grade	Maximum Display Surface Area Per Establishment	Spacing And Location[1]	Illumination[3]
Freestanding pole, monument or projecting	1 per street frontage	25'	$1^1/_2$ sq. ft. per linear foot of street frontage or 200 sq. ft. maximum, whichever is more restrictive		Indirect or internal, or direct
Freestanding pole, monument or projecting	1 per street frontage	70'	$1^1/_2$ sq. ft. per linear foot of street frontage or 300 sq. ft. maximum, whichever is more restrictive	Only if oriented to, and on property abutting, I-84	Indirect or internal, or direct
Wall, marquee, canopy or awning	1 or more[2]	1' above building for single story; 5' for buildings >30'	20% of building or tenant wall (as pertinent) ~~that faces a street may be covered~~		Indirect internal for wall; also direct for others

Notes:
1. If not noted, see section 10-23-3 of this chapter for general provisions and section 10-23-7 of this chapter for

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exemptions.
2. The combined maximum sign area for these signs shall not exceed the total area.
3. Not to be confused with or construed as the presence of an electronic reader board message center component in a sign.

TABLE 10-23-20(F)
PERMANENT SIGNS PERMITTED IN THE IL/IH ZONES[1]

Type Of Sign	Number Allowed	Maximum Allowable Height Above Grade	Maximum Display Surface Area Per Establishment	Spacing And Location[1]	Illumination[4]
Freestanding pole, monument, projecting, or roof[2]	1 per street[3]	40'	$1^1/_2$ sq. ft. per linear foot of street frontage or 300 sq. ft. maximum, whichever is more restrictive		Indirect or internal
Freestanding pole, monument or projecting[2] billboard	1 per street[3]	40'	400 sq. ft. maximum		Indirect or internal
Freestanding pole, billboard	1 per lot	40'	672 sq. ft. maximum	Only if oriented to, and on property abutting, I-84	Indirect or internal
Wall or marquee	1 or more up to maximum square feet allowed[2]	5' above building	25% of building or tenant wall (as pertinent)		Indirect or internal

Notes:
1. If not noted, see section 10-23-3 of this chapter for general provisions and section 10-23-7 of this chapter for

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exemptions.
2. The combined maximum sign area for these signs shall not exceed the total area.
3. 1 additional sign per street may be allowed when street frontage exceeds 500 feet and signs are at least 300 feet apart.
4. Not to be confused with or construed as the presence of an electronic reader board message center component in a sign.

Section 15. That Title 10, Chapter 25, Sections 10-25-6, 10-25-7, and 10-25-13, of the Nampa City Code, relating to Conditional Use Permits generally, and, more specifically, to procedures to be followed at hearings, action taken by the commission, and action taken on appeal by the city council, respectively, be amended, as follows:

10-25-6: CONDITIONAL USE PUBLIC HEARINGS:

. . .

A. Procedures Followed: Public hearing and legal notification procedures ~~required by this chapter~~ required by Title 10, Chapter 2, shall be followed. The purpose of a conditional use hearing shall be to determine whether the proposal conforms to criteria set forth in section 10-25-4 of this chapter ~~and~~. The commission may grant or deny the application for the proposed CUP or require such changes or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the commission shall become final fifteen (15) calendar days after the date of decision unless appealed to the council in accordance with the provisions of this chapter. Exception: When a rezone (or annexation and initial zoning designation) application is combined with a conditional use permit application, the commission shall make recommendations on both applications, rather than recommending on the rezone/initial zoning designation and making a [conclusive] decision on the conditional use permit.

. . .

10-25-7: ACTION BY COMMISSION:

The action by the commission upon the application for a CUP shall be by the majority of the members of the commission present at the meeting where the application is considered. If a CUP is denied, the minutes of the commission shall clearly state the reasons for denial. In order to grant a CUP, the findings of the commission shall be that the establishment, maintenance and operation of such use or structure shall expectedly satisfy the conclusions of law affiliated with CUPs as listed in section 10-25-4 of this chapter. Any CUP shall comply with approval conditions imposed by the commission or by the council -- whichever body makes the final decision on the CUP. (When a rezone [or annexation and initial zoning designation] application is combined with a conditional use permit application, the commission shall make recommendations on both applications, rather than recommending on the rezone/initial zoning designation and making a [conclusive] decision on the conditional use permit).

. . .

10-25-13: ACTION ON APPEALS BY COUNCIL:

The council, at the next duly held meeting, shall set a date and time for a public hearing on any appeal of the planning and zoning commission's grant of a CUP ~~appeal~~ and notify affected parties and property owners within 300' of the property

made the subject of the appeal ~~those concerned~~. The commission or planning staff shall submit to the council a report setting forth reasons for the commission's action. Alternatively, members of the commission shall be present at the council's public hearing to represent the commission's position on the matter. The council, after said public hearing, shall render its decision within fifteen (15) calendar days after the filing of such appeal. The council may by resolution affirm, reserve or modify any decision, determination or requirements of the commission, but before granting any item which was denied by the commission or before changing any of the conditions imposed by the conditions in the use permit, the council shall make written findings of facts setting forth wherein the commission findings were in error.

Section 16. That Title 10, Chapter 33, Section 10-33-4, of the Nampa City Code, relating to Corridor Landscaping Regulations, be amended, as follows:

10-33-4: CORRIDOR LANDSCAPING REGULATIONS:

. . .

C. Existing Vegetation:

. . .

2. Landscape Corridor Strip Conversion: Any area of land on a property already established as a required landscape corridor beautification strip shall be retained in a condition compliant with the requirements of this chapter. Conversion of a part of the strip by altering its landscaping treatment (i.e., plant variety, plant placement/spacing, replacement of grass with decorative rock, etc.) shall require pre-approval by the planning department if the extent of change affects 50% or more of the land area of the strip. The department shall ensure that the strip is/remains adequately landscaped per § 10-33-2.

~~2.~~3. Damage During Construction: Existing trees that are retained shall be protected from damage to bark, branches or roots during construction. (Construction or excavation occurring within the drip line of any public or private, retained tree may severely damage the same.) Any tree severely damaged while site construction is proceeding, where the damage is readily apparent, shall be replaced in accordance with subsection C1 of this section.

~~3.~~4. Grade Changes And Impervious Surfaces: Grade changes and impervious surfaces shall be allowed at a distance from the trunk of a retained tree equal to the diameter of the tree trunk plus six feet (6'), or to the drip line, whichever is farthest from the trunk.

~~4.~~5. Minimum Landscaping: Existing vegetation, which is to be retained, may be used to satisfy the minimum required landscaping requirement.

. . .

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Section 17. This ordinance shall be in full force and effect from and after its passage, approval, and publication, according to law.

Section 18. This ordinance is hereby declared to be severable. If any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purposes of the ordinance before the declaration of partial invalidity.

Section 19. All ordinances, resolutions, orders and parts thereof in conflict herewith are repealed.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, this ____ day of _____, 2016.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, this ____ day of _____, 2016.

ATTEST:

_____ Mayor Robert L. Henry

_____ City Clerk (or Deputy)