

Type of Review Requested (check all that apply)

- Annexation
- Appeal/Amendment
- Comprehensive Plan Map Change
- De-Annexation
- Ordinance Amendment
- Rezone
- Special Use Permit
- Subdivision- Preliminary Plat
- Subdivision- Final Plat
- Subdivision- Short Plat
- Time Extension
- Variance
- Other \_\_\_\_\_

**RECEIVED**  
DEC 06 2016

**STAFF USE ONLY:**  
 File number(s): ANN-16-07  
 Project name: Mack Annexation  
 Date filed: 12-6-16 Date complete: \_\_\_\_\_  
 Related files: \_\_\_\_\_

Subject Property Information 2 acre parcels direct by N of 16128 S. Florida

Address: 16130 So. Florida Ave. Caldwell Parcel Number(s): R 32739 00060  
 Subdivision: 0 So. Florida Ave Block: \_\_\_\_\_ Lot: \_\_\_\_\_ Acreage: 2.06 Zoning: County  
 Prior Use of the Property: Repair Shop  
 Proposed Use of the Property: Residential

Applicant Information:

Applicant Name: Rodney Mack Phone: 887-1494 608-0985  
 Address: 1028 W. Victory Rd City: Meridian State: ID Zip: 83642  
 Email: Mack44368@msn.com Cell: 208 608-0985  
 Owner Name: John Robert Brucks (Deceased) Phone: None  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Email: None Cell: None  
 Agent Name: (e.g., architect, engineer, developer, representative) Rodney Mack  
 Address: 1028 W. Victory Rd City: Meridian State: ID Zip: 83642  
 Email: Mack44368@msn.com Cell: 208 608-0985

Authorization

Print applicant name: Rodney Mack  
 Applicant Signature: Rodney Mack Date: 12/5/16

Project Name: <u>R Mack Annexation</u>	File #: <u>ANP-16-07</u>
Applicant/Agent:	

Applicant (v)	Description	Staff (v)
✓	Completed & signed Hearing Review Master Application	✓
✓	Narrative fully describing the proposed use/request, including current potable water supply and current sewage system	✓
	Recorded warranty deed for the subject property	✓
	Signed Lease Agreement (if applicable)	
	Vicinity map, showing the location of the subject property (8 1/2" x 11")	✓
	Site Plan	✓
	<b>The following are suggested items that may be shown on the site plan:</b>	
	• Property boundaries of the site	
	• Existing buildings on the site	
	• Parking stalls and drive aisles	
	• Sidewalks or pathways (proposed and existing)	
	• Fencing (proposed and existing)	
	Metes and bounds legal description for the site to be annexed (must be submitted in electronic format).	
	Landscape Plan (if applicable)	
	Neighborhood Meeting sign-in sheet	✓
	Fee	✓

**STAFF USE ONLY:**

Date Application Received: 12-6-2016

Received by: LC

Proposed Hearing Date: 1-10-2017

Hearing Body: HE

A-1

Untitled

My name is Rodney Mack, 1028 W. Victory Rd., Meridian Idaho 83642 (208) 887-1494 (Cell 608-0985). I have been willed the property of John Robert Brucks 2.06 acres located at 16130 So. Florida Ave. ,. Caldwell ID. Parcel # R32739 (Address may be listed as 0 So. Florida Ave.) I have been appointed Personal Representative to John Robert Brucks Estate, who passed away Feb. 2 2016.

When I had a Land Appraisal Report done it was brought to my attention that in 2001 Jim Guches bought 35 acres from John Brucks, (I believe Parcel # is 32739010) and they split off 2.06 acres, so Mr. Brucks could build a shop. However, they only allowed for a 25' easement to Mr. Guches property, which is not enough for todays Planning and Zoning. So Mr. Brucks 2.06 acres is not recognized by Canyon County. In order to inherit this property, this needs to be fixed. I had tried to come to an agreement with Jim Guches in this matter for past three months, but he refuses to accept responsibility. So Canyon County Planning & Zoning tells me my only option is to annex this piece of ground into the City of Caldwell. (See attached a Fire District and Hwy District study on this ground)

So here I am presenting this ground, to be annexed into the city. The property is presently zoned agricultural, and I would like to change that to residential. ~~R~~ Mr Brucks property has its own well and septic tank sewer system. My plans for this property is to continue the use of the shop on this property, with possible future plans of dividing this ground into one acre parcels to be sold as residential.

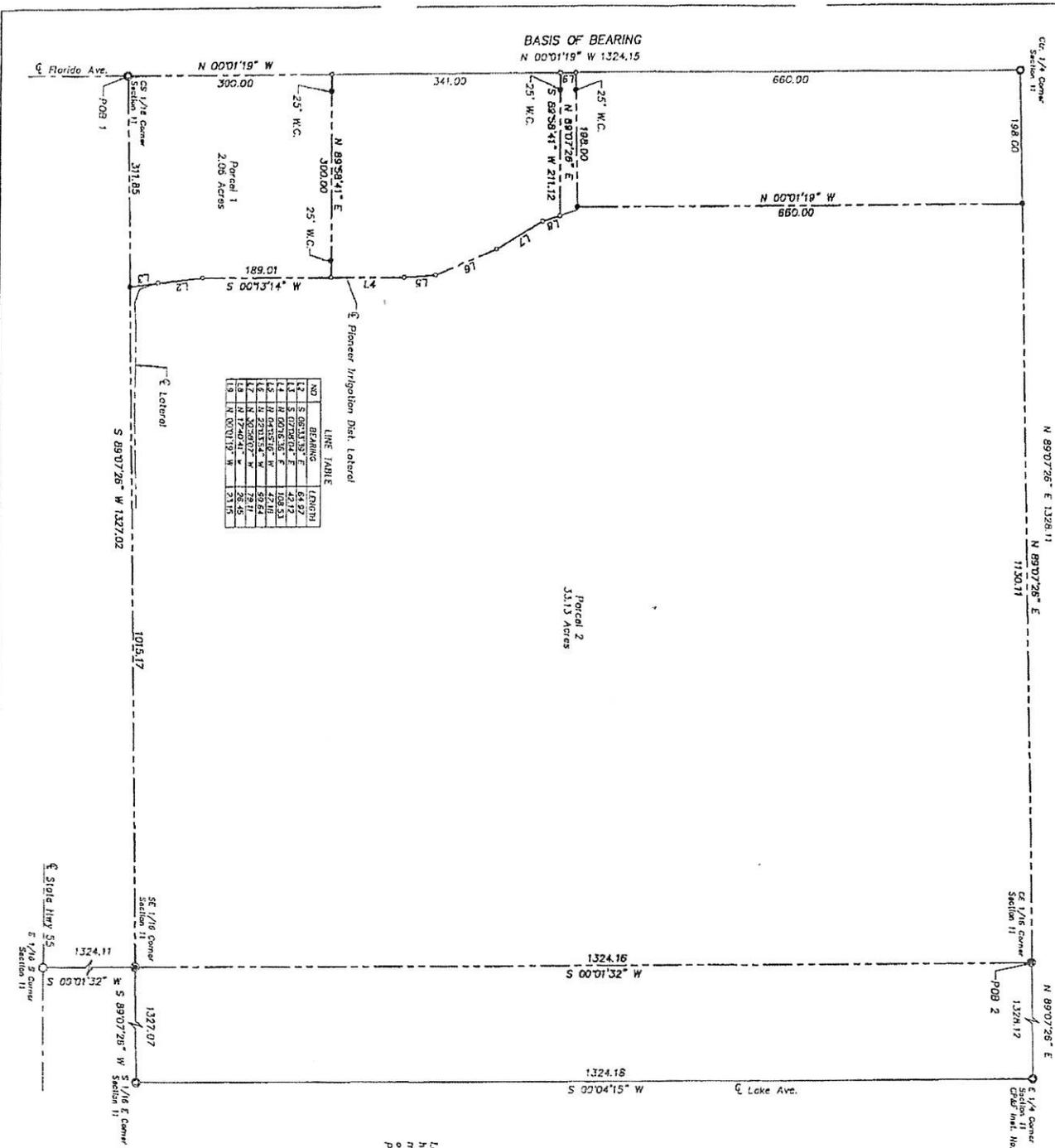
AD





# RECORD OF SURVEY

A PORTION OF THE NW1/4SE1/4 OF SECTION 11  
TOWNSHIP 3 NORTH, RANGE 3 WEST, BOISE MERIDIAN  
CANYON COUNTY, IDAHO



LINE TABLE

NO	BEARING	LENGTH
1-2	S 06°11'52\"	64.97
1-3	S 07°28'14\"	42.17
1-4	N 02°08'32\"	108.53
1-5	N 02°08'32\"	42.44
1-6	N 22°11'54\"	50.64
1-7	N 02°08'07\"	72.71
1-8	N 17°40'41\"	28.45
1-9	N 00°01'19\"	21.15

Reference Survey  
R.O.S. Inst. No. 9879352

Reference Deeds:  
Quitclaim Deed Inst. No. 200001982  
Warranty Deed Inst. No. 531343  
Warranty Deed Inst. No. 540392  
Warranty Deed Inst. No. 850804

SCALE: 1" = 100'

BASIS OF BEARING:  
R.O.S. Inst. No. 9114981

- ### LEGEND
- BRASS CAP MONUMENT - FOUND
  - 5/8" REBAR - FOUND
  - 5/8" x 30" REBAR - SET
  - 1/2" REBAR - FOUND
  - 1/2" x 24" REBAR - SET
  - PK NAIL & BRASS WASHER
  - CALCULATED POINT
  - PROPERTY BOUNDARY LINE
  - W.C. WITNESS CORNER
  - ( ) DATA OF RECORD

**CERTIFICATION**

I, Fritz Brownell, do hereby certify that I am a Professional Land Surveyor, licensed by the State of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, that this map is an accurate representation of said survey, and that it is in conformity with the Corner Reproduction Act, Idaho Code 55-1801 through 55-1812.

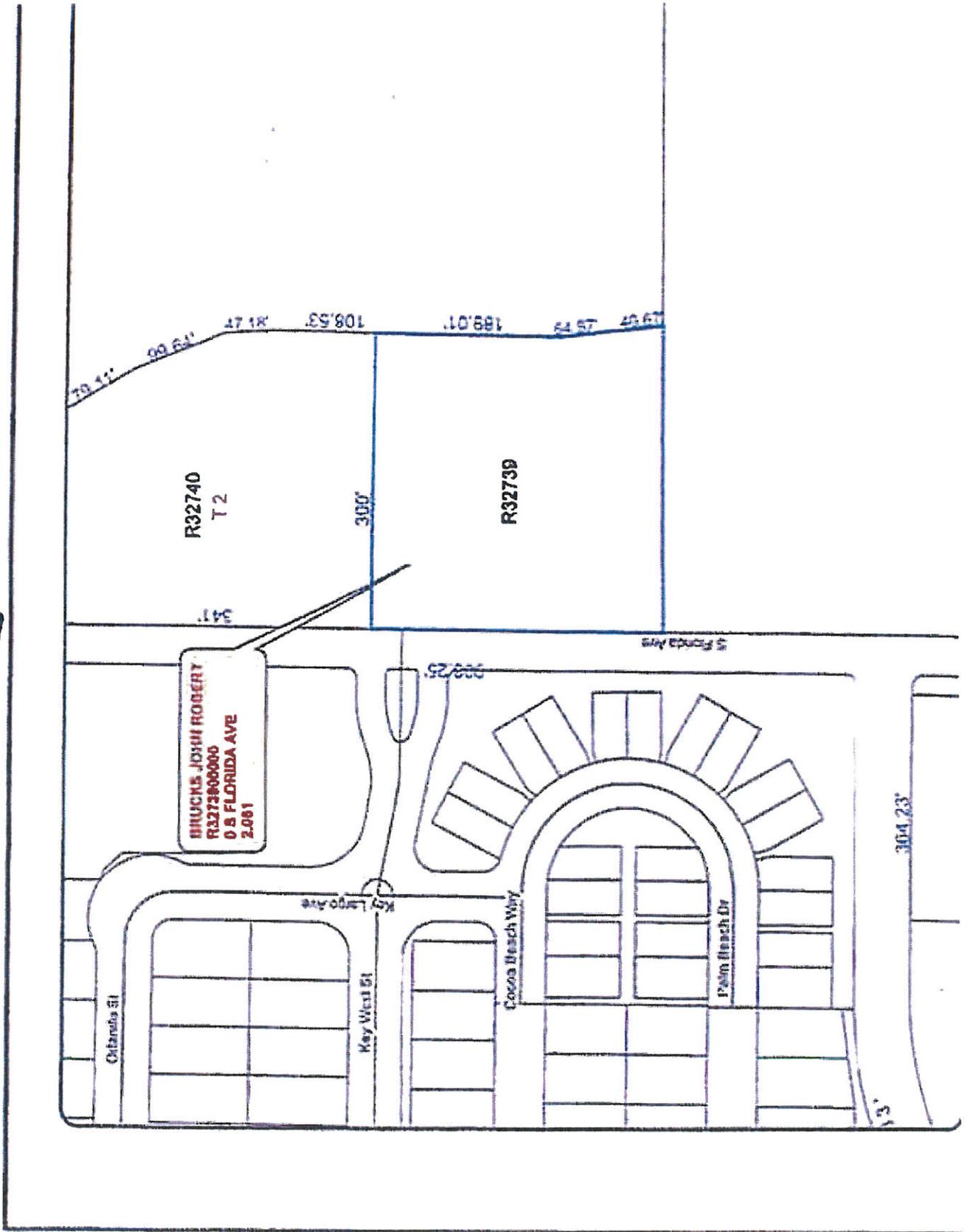


INDEX No. J34-11-2-4-0-00-00  
SURVEY 302  
**JIM GUCHES**

Drawn By: AKU  
Date: July 24, 2001  
Job No. JY0201

**Skinner Land Survey Co., Inc.**  
2011 N. Century Ave.  
Casper, WY 82401  
(307) 661-6525

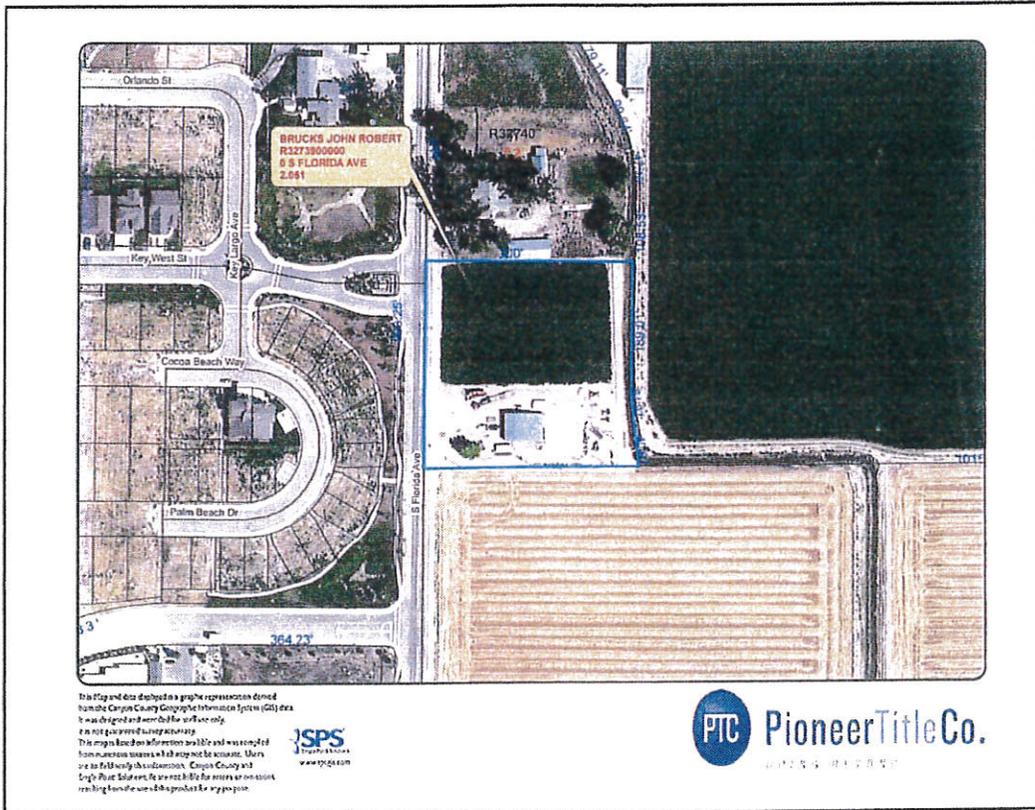
23



100 AH

### Title Company Aerial

Client	Rod Mack				
Property Address	0 S Florida Ave				
City	Caldwell	County	Canyon	State	ID Zip Code 83607
Borrower	N/A				



*Handwritten initials: RMB and SM*

**RECOMMENDATION BY  
THE CALDWELL HEARING EXAMINER  
CITY OF CALDWELL, IDAHO  
PUBLIC HEARING HELD JANUARY 10, 2017**

Subject: Case No. ANN-16-07 (Mack Annexation)

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The following land use action is the primary feature of this application:

- Annexation of 2.06 acres, more or less, into the City of Caldwell with a request for R-1 (Low Density Residential) zoning.

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VII	CONCLUSIONS OF LAW
VIII	RECOMMENDATION

**I COURSE OF PROCEEDINGS**

- 1.1 The Caldwell Planning and Zoning Department issued a notice of public hearing on application ANN-16-07 to be held before the Caldwell Hearing Examiner on January 10, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, December 25, 2016, notice was published in the Idaho Press Tribune, and on, or before, December 23, 2016 notice was mailed to all political subdivisions providing services to the site and to all property owners within 300 feet of the project site; and on, or before, December 29, 2016 notice was posted on the site.
- 1.2 On January 10, 2017 the Caldwell Hearing Examiner recommended **approval** of the annexation request.
- 1.3 Files and exhibits relative to this application are available for review in the Planning and Zoning Department, 621 Cleveland Boulevard, Caldwell and at applicable public hearings.

**II GENERAL FACTS**

- 2.1 APPLICANT/OWNER: Rodney Mack, 1028 W. Victory Road, Meridian, Idaho, 83642.
- 2.2 REQUEST: The applicant is requesting to annex approximately 2.06 acres into the City of Caldwell with a zoning designation of R-1 (Low Density Residential). The applicant intends to construct a residential home on the property in the future.
- 2.3 LEGAL DESCRIPTION: A legal description for the subject property was submitted with the annexation application and is contained within the case file (see Exhibit A-10).

2.4 COMPREHENSIVE PLAN DESIGNATION: The subject property is designated as Medium Density Residential.

**Medium Density Residential** – Suitable for infill development or a transitional district to include a mixture of dwelling choices (attached and detached), churches, schools, group day care facilities, public facilities, and limited neighborhood commercial uses. Manufactured home parks and manufactured home subdivisions may be located in designated and selected medium density areas. The residential density range shall not exceed four (4) dwelling units per gross acre for a single-family residential subdivision and shall not exceed ten (10) dwelling units per gross acre for a mixed use (planned unit development) site.

2.5 Land Use: The subject property is surrounded by the following uses:

<u>Direction</u>	<u>Zone</u>	<u>Comprehensive Map</u>	<u>Use</u>
Site	County	Medium Density Residential	Residential
North	County	Medium Density Residential	Farm Land/Residential
South	County	High Density Residential	Farm Land/Residential
East	County	Medium Density Residential	Farm Land/Residential
West	R-1	Low Density Residential	Residential

2.6 Public Services, Utilities and Facilities: The engineering department, fire marshal, building department, police department, Canyon Highway District #4, and Pioneer Irrigation were all sent a request for comment on December 14, 2016.

2.7 Transportation/Connectivity: The subject property has frontage onto Florida Avenue, a collector roadway.

### III PUBLIC TESTIMONY

3.1 Before the Hearing Examiner: January 10, 2017

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting annexation into the city limits with a designation of R-1 (Low Residential) zoning. The site is currently location in the County and the Comprehensive Plan Map indicates the property as medium density residential. Staff finds this request does comply with the comprehensive plan. The only conditions of approval we are requesting are that the applicant dedicate right of way for Florida Avenue. This is a standard request; the property line currently goes to the center of the road. Also, we'd like to enter into a deferral agreement for construction of street improvements and sidewalk. There is sidewalk on the west side of Florida but there is none on the east side where this property is located, so we felt a deferral agreement would be better than requiring the applicant to do that at this time. Another condition is the access point at Florida Avenue needs to be in compliance with current City collector street standards and any development in the future would require connecting to city services potable water and sanitary sewer.

Mr. Mapp asked for clarification regarding the parcels. There were originally 2 parcels and now there is only 1 coming in for annexation.

Mr. Wagoner stated that at one point this parcel was part of the property contiguous to the east. There was a lot split in the early 2000s but there is not documentation for that with the county. Therefore, that created what the county refers to as an unrecognized lot. There are 2 separate owners now and the owners to the east are not interested in working together with the applicant. By

annexing into the City we would recognize it as a legal parcel in the City limits and that way they could build on that parcel or they could divide the parcel – this gives them different options.

Mr. Rodney Mack, 1028 W. Victory Road, Meridian, ID stated that 2.6 acres into the City of Caldwell was part of a land sale of 35 acres in 2001. At that time all the land was zoned agriculture. The 2.6 acres was set aside by the original owner, John Brooks, (now deceased). He built a shop and included living quarters in the back of the shop. I am John Brooks’ personal representative and I am inheriting the 2.6 acres. The larger 33 acres was sold without a wide enough access road which made this an illegal split. Therefore, the 2.6 acres is not recognized by the County. I have tried to correct this issue with the current owner of the 33 acres but he is not interested in doing so. My only option is to annex this land into the City.

Mr. Mapp asked Mr. Mack if he has reviewed the staff report.

Mr. Mack indicated he has reviewed the staff report and does not have any issues with the report.

#### **IV APPLICABLE LEGAL STANDARDS**

- 4.1 City of Caldwell Zoning Ordinance No. 1451, as amended
- 4.2 City of Caldwell Comprehensive Plan, as amended
- 4.3 Idaho Code, Title 67, Chapter 65, Local Planning Act

#### **V COMPREHENSIVE PLAN ANALYSIS**

The Caldwell Hearing Examiner accepts the Comprehensive Plan Components as listed below.

- 5.1 The proposed project is consistent with the following Comprehensive Plan Components:

##### **GOALS AND POLICIES – Property Rights**

***Goal 1: Ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of the property.***

Policy 1-1: Establish a sound basis for land use and environmental regulations through comprehensive planning and adopted policies and ordinances.

Policy 1-4: Assure that development pays its fair share by establishing a rational, equitable basis for calculating the type of any exaction, or the amount of any impact fee.

##### **GOALS AND POLICIES – Population**

***GOAL 1: Maintain a high quality of life and livability in the community.***

POLICY 1-1: Plan for anticipated population and households that the community can support with adequate services and amenities.

##### **GOALS AND POLICIES – Land Use**

***GOAL 1: Establish land-use management policies that protect property rights and the environment, maintain a high quality of life, provide adequate land for all types of development, and adequately buffer non-compatible uses.***

Policy 1-1: Guide the growth and development of land uses in such a way that the health, safety and general welfare of residents will be protected.

5.2 The request was not found to be inconsistent with the Comprehensive Plan.

**It is the policy of the city to annex areas based upon the City's ability to orderly extend services to those areas contiguous to the City's municipal boundary. Staff recommends approval of the annexation request.**

**All adopted city ordinances, standards and codes were used in evaluating the application.**

**VI FINDINGS OF FACT**

6.1 The Caldwell Hearing Examiner accepts the facts outlined in the staff report, public testimony and the evidence list. All adopted city ordinances, standards and codes were used in evaluating the application.

**VII CONCLUSIONS OF LAW**

7.1 The Caldwell Hearing Examiner has the authority to hear this case and recommend to the Caldwell City Council that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of Idaho Code and City ordinances.

**VIII RECOMMENDATION**

8.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Hearing Examiner hereby recommends to the Mayor and City Council that Case Number ZON-16-07 a request by Rodney Mack to annex 2.06 acres, more or less, with an R-1 (Low Density Residential) zoning designation for the property located at 16130 S. Florida Avenue (Parcel # R3273900000) in Caldwell, Idaho is **approved** with the following conditions of approval:

8.2 Comply with all applicable city codes, ordinances, policies, and standards.

8.3 Dedicate 35 feet of right-of-way measured from the centerline of Florida Avenue, abutting the site. The right-of-way shall be dedicated either at time of development or within 60 days of a request from the City of Caldwell.

8.4 Enter into a deferral agreement with the City of Caldwell to complete typical improvements generally required along the frontages of Florida Avenue at some unknown future time when the City deems the improvements are necessary or when development occurs. These improvements shall include, but not be limited to, asphalt paving, concrete curb, gutter, sidewalk, streetlights, and landscaping.

8.5 Access points to Florida Avenue from the proposed property shall be in compliance with the most current City collector street standards and will be reviewed for approval at time of site development.

8.6 Any development on the site will require the connection to City services, including but not limited to potable water and sanitary sewer. All associated connection fees shall be paid at time of connection.

CASE NUMBER ANN-16-07 WAS HEARD BY THE CALDWELL HEARING EXAMINER AT A PUBLIC HEARING HELD JANUARY 10, 2017.

THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION WERE ADMINISTRATIVELY APPROVED AND SIGNED BY THE CALDWELL HEARING EXAMINER ON THE DATE NOTED BELOW.

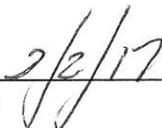


M. Jerome Mapp, Hearing Examiner

ATTEST:



Jarom Wagoner, Senior Planner



Date

CALDWELL HEARING EXAMINER MINUTES

January 10, 2017

- I. **Call to Order** – Hearing Examiner, Mr. Jerome Mapp, opened the meeting for the public hearing at 7:37 p.m.
- II. **Review of Proceedings** – Mr. Jerome Mapp outlined the procedures for the public hearing.

Members Present: Jarom Wagoner (Senior Planner/Development Team Leader); Robb MacDonald (City Engineer); April Cabello (Planning Technician)

Members Absent: Brian Billingsley (Planning Director)

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III. **Old Business:**

Mr. Mapp approved the Minutes of the November 8, 2016 meeting as previously signed by Hearing Examiner Mapp.

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IV. **New Business:**

**Case Number ANN-16-07** A request by Rodney Mack to annex 2.06 acres, more or less, with an R-1 (Low Density Residential) zoning designation. The subject property is located at 16130 S. Florida Avenue (Parcel # R3273900000) in Caldwell, Idaho.

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting annexation into the city limits with a designation of R-1 (Low Residential) zoning. The site is currently location in the County and the Comprehensive Plan Map indicates the property as medium density residential. Staff finds this request does comply with the comprehensive plan. The only conditions of approval we are requesting are that the applicant dedicate right of way for Florida Avenue. This is a standard request; the property line currently goes to the center of the road. Also, we'd like to enter into a deferral agreement for construction of street improvements and sidewalk. There is sidewalk on the west side of Florida but there is none on the east side where this property is located, so we felt a deferral agreement would be better than requiring the applicant to do that at this time. Another condition is the access point at Florida Avenue needs to be in compliance with current City collector street standards and any development in the future would require connecting to city services potable water and sanitary sewer.

Mr. Mapp asked for clarification regarding the parcels. There were originally 2 parcels and now there is only 1 coming in for annexation.

Mr. Wagoner stated that at one point this parcel was part of the property contiguous to the east. There was a lot split in the early 2000s but there is not documentation for that with the county. Therefore, that created what the county refers to as an unrecognized lot. There are 2 separate owners now and the owners to the east are not interested in working together with the applicant. By annexing into the City we would recognize it as a legal parcel in the City limits

and that way they could build on that parcel or they could divide the parcel – this gives them different options.

Mr. Rodney Mack, 1028 W. Victory Road, Meridian, ID stated that 2.6 acres into the City of Caldwell was part of a land sale of 35 acres in 2001. At that time all the land was zoned agriculture. The 2.6 acres was set aside by the original owner, John Brooks, (now deceased). He built a shop and included living quarters in the back of the shop. I am John Brooks' personal representative and I am inheriting the 2.6 acres. The larger 33 acres was sold without a wide enough access road which made this an illegal split. Therefore, the 2.6 acres is not recognized by the County. I have tried to correct this issue with the current owner of the 33 acres but he is not interested in doing so. My only option is to annex this land into the City.

Mr. Mapp asked Mr. Mack if he has reviewed the staff report.

Mr. Mack indicated he has reviewed the staff report and does not have any issues with the report.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Comprehensive Plan Analysis for **ANN-16-07 (Annexation)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **ANN-16-07 (Annexation)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **ANN-16-07 (Annexation)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**RECOMMENDATION FOR ANN-16-07 (Annexation)**: The Hearing Examiner **RECOMMENDED** that Case Number ANN-16-07 BE APPROVED with conditions: 8.2 through 8.6 as written

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**Case Number SUP-16-20**: A request by Verizon Wireless and Jodie Knopp for a special-use permit to construct a Wireless Communications Facility within the M-1 (Light Industrial) Zone. The subject property is located at 6301 Cleveland Boulevard in Caldwell, Idaho.

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting a special use permit to install a new wireless communication facility. The existing use is the Jalopy Jungle Salvage Yard and the tower will be located along the back portion of the property which is along Laster Lane. Laster Lane is a dead end street with very limited traffic. This request is in compliance with the Comprehensive Plan and Comprehensive Plan Map and staff sees no issues with the request. However, we do have some conditions of approval. We would strike Condition 8.3 for the fire apparatus access road. We took that condition from a different, recent Verizon proposal; they will not have 20 feet to get through to the tower. The difference is the prior proposal where we did have that condition was the cell tower was on the back of the property without a road fronting it. Therefore, the fire department did need that access. This

tower will be along the frontage and the fire department will have access so the condition is not needed. We do ask for conditions 8.2 and 8.4; that they comply with all applicable city codes, ordinances, policies and standards. And also the dedication of 35 feet of right-of-way measured from the centerline of Laster Lane, abutting the site. The right-of-way dedication shall be completed prior to issuance of any building permit for the subject property. One other condition that could take the place of 8.3 is completion of the written property acknowledgment form. Due to miscommunication between the applicant and property owner (the owner is out of state) this has not been completed. The property owner is aware of this proposal and is in agreement we just need the signed form. We request that this form be completed within 2 weeks.

Mr. Mapp has no questions.

Jodie Knopp, 5710 S. Green Street, Murray, UT stated that as the population throughout Caldwell increases each communications facility accommodates a certain amount of users and it was determined by a collaborate effort between customers and Verizon Wireless that this particular area needs more support and more efficient service which the proposed facility is intended to provide. The facility will include a 100 foot tower with an equipment platform at the base of the tower to hold outdoor cabinets which will all be located in a fully fenced and gated area. The proposed facility is a passive, unoccupied use. The facility will only generate the average of one vehicle trip per month for maintenance. The facility will be structurally engineer to meet or exceed local building codes, safety requirements as well as FCC and FAA requirements, ensuring a safe facility which will not be hazardous to surrounding properties or public. She has read through the facts and findings and is discussed with Mr. Wagoner about striking Condition 8.3 and as well as adding the additional Condition and is in agreement with all Conditions of Approval.

Mr. Mapp has no questions.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Comprehensive Plan Analysis for **SUP-16-20 (Special-Use)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **SUP-16-20 (Special-Use)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **SUP-16-20 (Special-Use)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**ORDER OF DECISION FOR SUP-16-20 (Special-Use Permit)**: The Hearing Examiner **ORDERED** that Case Number SUP-16-20 IS APPROVED with the following conditions: 8.2 & 8.4 striking 8.3 and replacing it with the Condition that they will provide the City with the Written Property Acknowledgement Form within 2 weeks.

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**Case Number ZON-16-07:** A request by Jackson's Food Stores to rezone three parcels totaling 0.57 acres, more or less, from R-2 (Medium Density Residential) to C-2 (Community Commercial) with a Development Agreement. The subject properties are located at 2406, 2414, and 2422 S. Montana Avenue in Caldwell, Idaho.

Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to rezone three parcels totaling 0.57 acres, more or less, from R-2 (Medium Density Residential) to C-2 (Community Commercial). There are three properties as part of this rezone request. There is an existing Jackson's convenience store/gas station at this location that has been there for years. This would be a legal, non-conforming use. They are looking at relocating their fuel islands to the South, which would give them the ability to increase the number of fuel islands as well as make the site more manageable coming in and going out. The owner, Mr. Jackson, recently went through a big remodel project at this convenience store making several improvements. The majority of the recommended Conditions of Approvals have to do with the two lower parcels as their sidewalk was recently constructed along Montana and some landscaping improvements were done along that street. There are two residential homes on the lower parcels that will be removed. The subject property has frontage on Linden Street which is a minor arterial roadway and also on Montana which is a collector roadway. This request is within the confines of the Comprehensive Plan Map. Staff does have a number of recommended Conditions of Approval in accordance with the City Code; improving the site, the access points to the site, and the access standards for the City of Caldwell. Given that Montana is a collector roadway and Linden is an arterial roadway, staff is recommending a modification to allow a right in/right out access. Currently, there are 2 access points on the North, the applicant is asking for a 3<sup>rd</sup> on the South portion. Staff is recommending they just have the 2 accesses and essentially relocate the central access just a little further to the south to be able to utilize the alley right-of-way and then extend it further along the property. This would still maintain access on the north end.

Mr. Mapp asked for clarification on where the exits currently exist and where the curb cuts are located and where they will be located in the future.

Mr. Wagoner pointed out on the map where curb cuts and ingress and egress will be located. The applicant is asking for 3 curb cuts on Montana and 1 on Linden.

Mr. Wagoner stated the City Engineer wanted him to mention that the reason for the allowance of the curb cut on Linden is to facilitate truck circulation for gasoline delivery.

Mr. Doug Racine, BRS Architects, 1010 Allante Place #100, Boise, ID testified that the existing Jackson's store has been at that location for a long time. It's currently a non-conforming use. The fuel island is the essential reason they are seeking re-zone on the parcels to the south. They currently have an existing curb cut along Walnut Street, and 2 existing curb cuts along Montana Avenue that service the existing store. This store has recently been remodeled; the sidewalk

has been reconstructed as well as the 3 approaches. With the parcel to the South we would be locating a new fuel island canopy, eliminating the existing fuel island canopy. We would be crossing the alley right-of-way with an electrical conduit from the store to the pumps. We have reviewed this with Engineering and there is no issue with that. We will be paving and improving that alley way with hard surface material to the westerly property line of the 2 adjoining parcels.

Mr. Wagoner stated that regarding Conditions 8.7 and 8.11 and the 13 foot wide landscape buffer, this is a reduction of the 20 feet required by ordinance. Regarding Condition 8.9 after discussing this with the City Engineer we would be comfortable leaving the right-of-way as it is and striking Condition 8.9.

Mr. John Jackson, 3450 Commercial Court, Meridian, ID stated he would like to address the curb cuts. The northern piece of the project is completed; the curb cuts and sidewalks are all brand new. On the southern portion of the property they are in agreement with the requests for landscaping. One issue he has is the right in/right out only. They would be the only property on Linden that has a median. It would limit their access considerably which would be a detriment to their customers. They respectfully request full access off Linden.

Mr. Mapp indicated the right in/right out is so close to the intersection and he would request that there are no curb cuts on that side of the street.

Mr. Jackson indicated it was 100 feet from the corner to their property line not 50 feet. Mr. Jackson believes a median would restrict his customers and reduce their business. They would only be able to turn right on Linden.

Scott Stom, 3450 E Commercial Street, Meridian, ID stated he would like to discuss the right-of-way the City is requiring in Condition 8.5. They were planning to place their fuel sign on that corner. In discussions with the City they thought they might be able to enter into a license agreement that possibly some of the right-of-way could be encroached to locate our sign.

Mr. Mapp asked Mr. Wagoner about the sign on the property.

Mr. Wagoner indicated that if they adopt the right-of-way changes it would affect the sign placement because then it would be within the right-of-way. Typically there is a 3 ft setback from the right-of-way for the sign location.

Mr. Wagoner has no issue striking Condition 8.9. The right-of-way that is existent will be sufficient for what they need. But they would still like to have the right-of-way on Linden Street as is required by code.

Mr. Mapp asked Mr. Jackson if the main reason for the right in/right out was to move the gasoline trucks in and out.

Mr. Jackson explained that the right in/right out will not inhibit the gasoline trucks from making their deliveries. The main reason they are asking to not have the right in/right out is for customer access.

**MR. MAPP CLOSED THE PUBLIC TESTIMONY.**

Comprehensive Plan Analysis for **ZON-16-07 (Zoning)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **ZON-16-07 (Zoning)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **ZON-16-07 (Zoning)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

**RECOMMENDATION FOR ZON-16-07 (Zoning)**: The Hearing Examiner **RECOMMENDED** that Case Number ZON-16-07 BE APPROVED with the following conditions: 8.1 through 8.8, 8.10, and 8.11 as written, delete 8.9 and modifying 8.12 to allow 3 curb cuts, the 2 existing curb cuts plus one new curb cut that will commence at the alley and move to the South as stated on the site plan.

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**V.** Planning Issues – None

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**VI.** Adjournment

The Hearing Examiner adjourned the meeting at approximately 8:57 p.m.

MINUTES APPROVED AND SIGNED BY THE HEARING EXAMINER, M. JEROME MAPP, ON THE DATE NOTED BELOW:

  
Mr. Jerome Mapp \_\_\_\_\_ 2/2/17 \_\_\_\_\_ ATTEST:  
Date

  
Jarom Wagener, Senior Planner / Development Team Leader \_\_\_\_\_ 2-2-17 \_\_\_\_\_  
Date

**For detailed Minutes, please request a copy of the digital recording.**

**ORDER OF DECISION  
BY THE MAYOR AND CITY COUNCIL  
CITY OF CALDWELL, IDAHO  
PUBLIC HEARING HELD JANUARY 17, 2017  
SIGNED FEBRUARY 6, 2017**

**Subject:** Case No. ANN-16-07 (Mack Annexation)

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The following land use action is the primary feature of this application:

- Annexation of 2.06 acres, more or less, into the City of Caldwell with a request for R-1 (Low Density Residential) zoning.

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**I COURSE OF PROCEEDINGS**

- 1.1 The Caldwell Planning and Zoning Department issued a notice of public hearing on application ANN-16-07 to be held before the Caldwell Hearing Examiner on January 10, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, December 25, 2016, notice was published in the Idaho Press Tribune, and on, or before, December 23, 2016 notice was mailed to all political subdivisions providing services to the site and to all property owners within 300 feet of the project site; and on, or before, December 29, 2016 notice was posted on the site.
- 1.2 On January 10, 2017 the Caldwell Hearing Examiner recommended **approval** of the annexation request.
- 1.3 The Caldwell Planning and Zoning Department issued a notice of public hearing on application ANN-16-07 to be held before the Caldwell City Council on January 17, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On or before January 1, 2017 notice was published in the Idaho Press Tribune, on or before December 30, 2016 notice was mailed to all political subdivisions providing services to the site and to property owners within 300 feet of the site; and, on or before January 5, 2017 notice was posted on the site.
- 1.4 On January 17, 2017 the Caldwell City Council ordered that the annexation request be **approved**.
- 1.5 Files and exhibits relative to this application are available for review in the Planning and Zoning Department, 621 Cleveland Boulevard, Caldwell and at applicable public hearings.

**II GENERAL FACTS**

- 2.1 APPLICANT/OWNER: Rodney Mack, 1028 W. Victory Road, Meridian, Idaho, 83642.
- 2.2 REQUEST: The applicant is requesting to annex approximately 2.06 acres into the City of Caldwell with a zoning designation of R-1 (Low Density Residential). The applicant intends to construct a residential home on the property in the future.
- 2.3 LEGAL DESCRIPTION: A legal description for the subject property was submitted with the annexation application and is contained within the case file (see Exhibit A-10).
- 2.4 COMPREHENSIVE PLAN DESIGNATION: The subject property is designated as Medium Density Residential.

**Medium Density Residential** – Suitable for infill development or a transitional district to include a mixture of dwelling choices (attached and detached), churches, schools, group day care facilities, public facilities, and limited neighborhood commercial uses. Manufactured home parks and manufactured home subdivisions may be located in designated and selected medium density areas. The residential density range shall not exceed four (4) dwelling units per gross acre for a single-family residential subdivision and shall not exceed ten (10) dwelling units per gross acre for a mixed use (planned unit development) site.

- 2.5 Land Use: The subject property is surrounded by the following uses:

<u>Direction</u>	<u>Zone</u>	<u>Comprehensive Map</u>	<u>Use</u>
Site	County	Medium Density Residential	Residential
North	County	Medium Density Residential	Farm Land/Residential
South	County	High Density Residential	Farm Land/Residential
East	County	Medium Density Residential	Farm Land/Residential
West	R-1	Low Density Residential	Residential

- 2.6 Public Services, Utilities and Facilities: The engineering department, fire marshal, building department, police department, Canyon Highway District #4, and Pioneer Irrigation were all sent a request for comment on December 14, 2016.
- 2.7 Transportation/Connectivity: The subject property has frontage onto Florida Avenue, a collector roadway.

**III PUBLIC TESTIMONY**

- 3.1 Before the Hearing Examiner: January 10, 2017  
 Jarom Wagoner, Senior Planner/Development Team Leader, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to annex 2.06 acres, more or less with an R-1 (Low Density Residential) zoning designation. The applicant is requesting annexation so as to have the parcel be a buildable recognized parcel.  
  
 Mr. Mack, 10280 W. Victory Road, Meridian, ID, 83642 states that the parcel was split from the original lot in 2001. Since that time that property has changed hands and the county does not currently recognize his parcel as a buildable lot. He wants to annex into the City to fix the issue and create a buildable lot.

3.2 Before the Mayor and City Council: January 17, 2017

Jarom Wagoner, 621 Cleveland Blvd., acknowledged being sworn in and outlined the staff report. He noted that the subject property fronts Florida Avenue. The surrounding properties are within the boundaries of unincorporated Canyon County. To the west of the site is a residential subdivision (Sawgrass) located within the City Limits and zoned R-1. The request is in compliance with the Comprehensive Plan Map. The applicant would connect to city service at the time of construction along with the dedication of right-of-way along the Florida frontage. Staff recommends that a deferral agreement be put in place regarding sidewalk construction.

Councilman Hopper expressed his concern that approved deferral agreements are acted upon and not forgotten.

Jarom Wagoner reported that the deferral agreement would be included on the following City Council Meeting Agenda for consideration. An Engineering Department staff will be assigned for the creation of deferral agreements as approved by City Council and outlined within the conditions of approval.

Brent Orton reported that all land-use items are now tied to the GIS mapping system so that staff has access to land-use information concerning parcels located within City Limits. This resource is a strong research tool for staff when discussions are held with potential developers.

Rodney Mack, 1028 W. Victory Road, Meridian acknowledged being sworn in and spoke in favor of the request. He reported that he has not been successful in having the parcel acknowledged for access purposes through Canyon County.

Councilman Allgood asked if the parcel is being taxed through Canyon County.

Mr Mack reported that the parcel is current with Canyon County tax assessments.

**IV APPLICABLE LEGAL STANDARDS**

- 4.1 City of Caldwell Zoning Ordinance No. 1451, as amended
- 4.2 City of Caldwell Comprehensive Plan, as amended
- 4.3 Idaho Code, Title 67, Chapter 65, Local Planning Act

**V COMPREHENSIVE PLAN ANALYSIS**

The Caldwell Hearing Examiner accepts the Comprehensive Plan Components as listed below.

- 5.1 The proposed project is consistent with the following Comprehensive Plan Components:

**GOALS AND POLICIES – Property Rights**

***Goal 1: Ensure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of the property.***

Policy 1-1: Establish a sound basis for land use and environmental regulations through comprehensive planning and adopted policies and ordinances.

Policy 1-4: Assure that development pays its fair share by establishing a rational, equitable basis for calculating the type of any exaction, or the amount of any impact fee.

**GOALS AND POLICIES – Population**

***GOAL 1: Maintain a high quality of life and livability in the community.***

POLICY 1-1: Plan for anticipated population and households that the community can support with adequate services and amenities.

**GOALS AND POLICIES – Land Use**

***GOAL 1: Establish land-use management policies that protect property rights and the environment, maintain a high quality of life, provide adequate land for all types of development, and adequately buffer non-compatible uses.***

Policy 1-1: Guide the growth and development of land uses in such a way that the health, safety and general welfare of residents will be protected.

5.2 The request was not found to be inconsistent with the Comprehensive Plan.

**It is the policy of the city to annex areas based upon the City's ability to orderly extend services to those areas contiguous to the City's municipal boundary. Staff recommends approval of the annexation request.**

**All adopted city ordinances, standards and codes were used in evaluating the application.**

**VI FINDINGS OF FACT**

6.1 The Caldwell City Council accepts the facts outlined in the staff report, public testimony and the evidence list. All adopted city ordinances, standards and codes were used in evaluating the application.

**VII CONCLUSIONS OF LAW**

7.1 The Caldwell City Council has the authority to hear this case and order that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of Idaho Code and City ordinances.

**VIII RECOMMENDATION**

8.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Hearing Examiner hereby recommends to the Mayor and City Council that Case Number ZON-16-07 a request by Rodney Mack to annex 2.06 acres, more or less, with an R-1 (Low Density Residential) zoning designation for the property located at 16130 S. Florida Avenue (Parcel # R3273900000) in Caldwell, Idaho is **approved** with the following conditions of approval:

8.2 Comply with all applicable city codes, ordinances, policies, and standards.

8.3 Dedicate 35 feet of right-of-way measured from the centerline of Florida Avenue, abutting the site. The right-of-way shall be dedicated either at time of development or within 60 days of a request from the City of Caldwell.

8.4 Enter into a deferral agreement with the City of Caldwell to complete typical improvements generally required along the frontages of Florida Avenue at some unknown future time when the City deems the improvements are necessary or when development occurs. These improvements shall include, but not be limited to, asphalt paving, concrete curb, gutter, sidewalk, streetlights, and landscaping.

- 8.5 Access points to Florida Avenue from the proposed property shall be in compliance with the most current City collector street standards and will be reviewed for approval at time of site development.
- 8.6 Any development on the site will require the connection to City services, including but not limited to potable water and sanitary sewer. All associated connection fees shall be paid at time of connection.

**IX ORDER OF DECISION**

- 9.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell City Council hereby orders that Case Number ZON-16-07 a request by Rodney Mack to annex 2.06 acres, more or less, with an R-1 (Low Density Residential) zoning designation for the property located at 16130 S. Florida Avenue (Parcel # R3273900000) in Caldwell, Idaho is **approved** with the following conditions of approval:
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- 9.5 Access points to Florida Avenue from the proposed property shall be in compliance with the most current City collector street standards and will be reviewed for approval at time of site development.
- 9.6 Any development on the site will require the connection to City services, including but not limited to potable water and sanitary sewer. All associated connection fees shall be paid at time of connection.

CASE NUMBER ANN-16-07 WAS HEARD BY THE MAYOR AND CITY COUNCIL AT A PUBLIC HEARING HELD JANUARY 17, 2017.

WRITTEN FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DECISION WERE APPROVED BY CITY COUNCIL MEMBERS AND SIGNED BY MAYOR NANCOLAS AT A REGULARLY SCHEDULED MEETING HELD FEBRUARY 6, 2017.

\_\_\_\_\_  
Mayor Garret L. Nancolas

ATTEST:

\_\_\_\_\_  
City Clerk

