

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
MAY 23 2017

STAFF USE ONLY:
 File number(s): 2017-04
SUP-17-04
 Project name: 520 S Florida Rezone
 Date filed: 5-23-17 Date complete: _____
 Related files: _____

Subject Property Information

Address: 520 S. FLORIDA Parcel Number(s): PARCEL 1
 Subdivision: _____ Block: _____ Lot: _____ Acreage: 3.23 Zoning: C-4
 Prior Use of the Property: VACATED AMUSEMENT PARK
 Proposed Use of the Property: TRANSITION TO C-3 ZONING FOR MOISTORAGE AND/OR MULTIFAMILY

Applicant Information:

Applicant Name: MTP ACQUISITION 520 FLORIDA, LLC Phone: 406-546-5574
 Address: 3605 AVENUE ST. City: CALDWELL State: ID Zip: 83605
 Email: jjgigliani@montanatimberproducts.com Cell: 406-546-5574
 Owner Name: JOHN A. GILMAN Phone: SOME
 Address: _____ City: _____ State: _____ Zip: _____
 Email: _____ Cell: _____
 Agent Name: (e.g., architect, engineer, developer, representative) _____
 Address: _____ City: _____ State: _____ Zip: _____
 Email: _____ Cell: _____

Authorization

Print applicant name: MTP ACQUISITION 520 FLORIDA, LLC
 Applicant Signature: [Signature] Date: 4/20/17

AI

Project Name: <u>Phase 1 520 S. Flanagan</u>	File #: <u>2017-04</u>
Applicant/Agent: <u>MP Acquisition 520 Flanagan, LLC</u>	

Applicant (v)	Description	Staff (v)
	Completed & signed Hearing Review Master Application	✓
	Narrative fully describing the proposed use/request	✓
	Recorded warranty deed for the subject property	✓
	Signed Property Owner Acknowledgement (if applicable)	
	Vicinity map, showing the location of the subject property (8 1/2" x 11")	
	Site Plan	
	The following are suggested items that may be shown on the site plan:	
	• 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 rezoned (must be submitted in electronic format).-•	
	Landscape Plan (if applicable)	
	Neighborhood Meeting sign-in sheet	✓
	Fee	

STAFF USE ONLY:

Date Application Received: 5/23/17

Received by: JW

Proposed Hearing Date: July 11, 2017

Hearing Body: HE

AI



CITY OF
Caldwell, Idaho

Planning & Zoning

SPECIAL-USE PERMIT

Project Name: <i>Request + special use 3.23 acres</i>	File #: <i>SUP-17-04</i>
Applicant/Agent: <i>Mrp ACQUISITION 520 FURONDA, LLC PARCEL 1</i>	

Applicant (v)	Description	Staff (v)
	Completed & signed Hearing Review Master Application	✓
	Narrative fully describing the proposed use/request	✓
	Recorded warranty deed for the subject property	✓
	Signed Property Owner Acknowledgement (if applicable)	✓
	Vicinity map, showing the location of the subject property	✓
	Site Plan The following are suggested items that may be shown on the site plan:	
	• 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)	
	Floor Plan	
	Landscape Plan (if applicable)	✓
	Neighborhood Meeting sign-in sheet	
	All of the above items shall be submitted in 8 ½ x 11 paper format AND in electronic format (preferably PDF or Word) on either a jump drive or CD. Please be aware the jump drive or CD will become part of the file and will not be returned	
	Fee	

STAFF USE ONLY:

Date Application Received: *5-23-2017*
 Received by: *JW*
 Proposed Hearing Date: *7-11-2017*
 Hearing Body: *HE*

AM

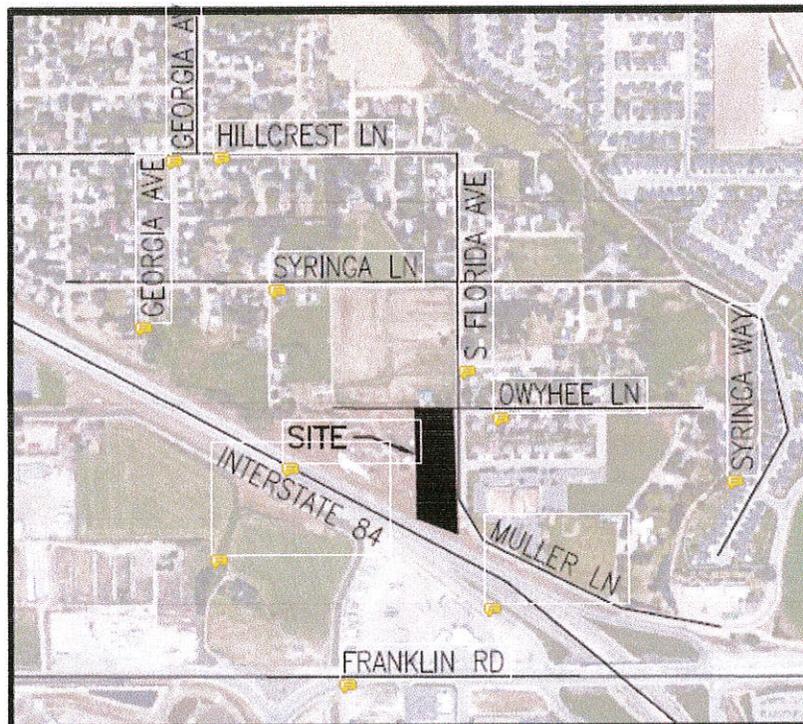
Canyon Crossing-Narrative for Parcel 1 520 S. Florida Ave, Caldwell, ID

Request to Rezone Parcel 1 (3.23 acres) located at 520 S. Florida from C-4 to C-3 and for a Special Use Permit for the intended use of Ministorage

History of property: 520 S. Florida has been a vacated site adjacent to I-80 for several years. Its last use was an outdoor amusement park. Current zoning on the property is C-4 Highway Commercial.

Use Intent:

Current ownership has cleared the site, demolished several vacated building and is the process of building eleven (11) 4plex buildings on eastern side of the property. Ownership believes that the intended use of Parcel 1 as ministorage will; a) compliment the development plan for the area, b) provide a development option which shall decrease traffic count and congestion, c) satisfy a business need for the Caldwell community.



-VICINTY MAP-
NTS

36.00 x 24.00 in <

NEIGHBORHOOD MEETING FORM
 City of Caldwell Planning and Zoning Department
 621 E. Cleveland Blvd., Caldwell, ID 83605
 Phone: (208) 455-3021

Start Time of Neighborhood Meeting: 6:00 pm

End Time of Neighborhood Meeting: 6:49 pm

Those in attendance please print your name and address. If no one attended, Applicant please write across this form "No one attended."

- | | <u>PRINTED NAME</u> | <u>ADDRESS, CITY, STATE, ZIP</u> |
|-----|--------------------------|---|
| 1. | <i>Phyllis Jewett</i> | <i>Phyllis Jewett · 403 Hill Ln Caldwell, IDA</i> |
| 2. | <i>Shannon Robertson</i> | <i>105 Crestline Ave. Caldwell ID 83605</i> |
| 3. | <i>Phyllis Jewett</i> | <i>403 Hill Ave Caldwell Idaho 83605</i> |
| 4. | <i>Brian Allen</i> | <i>211 N ALASKA AVE CALDWELL ID 83605</i> |
| 5. | <i>Norman Ritzen</i> | <i>2900 LifeWay Caldwell, ID 83605</i> |
| 6. | <i>Casey Gray</i> | <i>619 E. Marsden Ave Meridian, ID 83646</i> |
| 7. | <i>GERALD LANGRAN</i> | <i>218 N ALASKA AVE CALD., ID 83605</i> |
| 8. | <i>Kurt Fourn</i> | <i>2902 OWYHEE CALD 83605</i> |
| 9. | <i>Betty Van Guden</i> | <i>504 Reece Cal 83605</i> |
| 10. | <i>Bonnie Minder</i> | <i>504 Reece hwy Caldwell 83605</i> |
| 11. | <i>Carol Jones</i> | <i>2811 Hillcrest Ln " "</i> |
| 12. | <i>Sue Tachick</i> | <i>223 Florida Caldwell 83605</i> |
| 13. | <i>Shelly Graham</i> | <i>219 S. Florida " "</i> |
| 14. | | |
| 15. | | |
| 16. | | |
| 17. | | |
| 18. | | |
| 19. | | |

- 20. _____
- 21. _____
- 22. _____
- 23. _____
- 24. _____
- 25. _____

Neighborhood Meeting Certification:

Applicants shall conduct a neighborhood meeting for the following: special use permit applications; variance applications; annexation applications; planned unit development applications; preliminary plat applications that will be submitted in conjunction with an annexation, rezone or planned unit development application; and, rezone applications as per City of Caldwell Zoning Ordinance Section 10-03-12.

Description of the proposed project: Change Zoning from C-4 to C-3 for mini storage

Date of Round Table meeting: 5/15/2017

Notice sent to neighbors on: 5/1/2017

Date & time of the neighborhood meeting: 5/15/2017

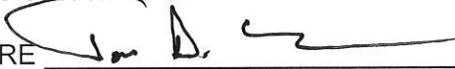
Location of the neighborhood meeting: At 520 S. Florida

Developer/Applicant:

Name: MAD ACQUISITION 520 FLORIDA, LL

Address, City, State, Zip: 3605 ANNAH ST, CALDWELL, ID 83605

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accord with City of Caldwell Zoning Ordinance Section 10-03-12.

DEVELOPER/APPLICANT SIGNATURE  DATE 5/15/17

AS

2017-009476
RECORDED
03/15/2017 12:59 PM
CHRIS YAMAMOTO
CANYON COUNTY RECORDER
Pgs=2 MBROWN \$13.00
TYPE: DEED
ALLIANCE TITLE - BOISE PRODUCTION
ELECTRONICALLY RECORDED

9-29116 ①

QUITCLAIM DEED

FOR VALUE RECEIVED,

MTP ACQUISITION 520 FLORIDA LLC, a limited liability company

do(es) hereby convey, release, remise and forever quitclaim unto

MTP ACQUISITION 520 FLORIDA LLC, a limited liability company

whose current address is: 3605 Arthur Street, Caldwell, ID 83605

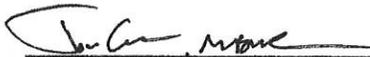
the following described premises:

See Attached Legal Description

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

Dated: March 15, 2017

MTP ACQUISITION 520 FLORIDA LLC


John Giuliani, Member

State of Idaho} ss
County of Ada}

On this ^{15th} day of March, 2017, before me, Sharla J. Dudding, a Notary Public in and for said state, personally appeared John Giuliani known or identified to me to be the Member in the Limited Liability Company known as MTP ACQUISITION 520 FLORIDA LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

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



Notary Public for the State of Idaho
Residing at: Star
Commission Expires: 2/5/2019



A10

CITY OF CALDWELL
CALDWELL HEARING EXAMINER MINUTES
Community Room, Caldwell Police Department
110 South 5th Avenue, Caldwell, Idaho
July 11, 2017, 7:00 P.M.

- I. **Call to Order** – Hearing Examiner, Mr. Jerome Mapp, opened the meeting for the public hearing at 7:02 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); Lori Colligan (Administrative Secretary)

Members Absent: Brian Billingsley (Planning Director)

Old Business:

- III. Mr. Mapp approved the Minutes of the May 2, 2017 and May 11, 2017 meetings as previously signed by Hearing Examiner Mapp.

IV. New Business:

1. **Case Number ZON-17-03:** A request by Christian Faith Center for a Comprehensive Plan Map Change from Low Density Residential to Commercial with a rezone of 5.02 acres, more or less from R-1 (Low Density Residential) to C-2 (Community Commercial), and approval of a Development Agreement. The subject property is located at 5106 S. 10th Avenue (Parcel # R2503000000) in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to rezone approximately 5.02 acres from R-1 (Low Density Residential) to C-2 (Community Commercial) with a Development Agreement.

Mr. Wagoner stated the Comprehensive Plan Map does indicate the property is low density residential, however, within the Comprehensive Plan itself there is a section in regards to major thoroughfares within the City of Caldwell, that have an overlay type of zoning, 10th Avenue is one of those. For this stretch of 10th Avenue those properties abutting 10th Avenue are indicated as C-1 (Neighborhood Commercial) or C-2 (Community Commercial) which is what is being proposed tonight. If this request is approved they are required to provide landscaping for the property, this would be along 10th Avenue. Which would require a minimum of 20 foot wide vegetative landscape buffer to include trees as well as shrubs, additionally; there should be a landscape requirement along the west end/the back side of the property due to the residential neighborhood at that location. Typically that would be a 15 ft. wide landscape buffer and that is to provide buffering between whatever type use does go in on the property and the neighbors that are currently there. It is my understanding there is not an end user at this time. It has been

difficult to sell as residential. Staff does find this request in compliance with the Comprehensive Plan. If this is approved there are conditions of approval. We would like to add an additional condition, 8.6 in regards to the landscaping buffer along the backside of the property.

Mr. Mapp asked in regards to landscaping if there would be timeframe for the landscaping to be completed. If this does pass what kind of timeframe will they have?

Mr. Wagoner would not suggest a timeframe but typically that landscaping would be required to be completed at future development.

Mr. Mapp asked Mr. Wagoner to explain how you can have a parcel that is R-1 but have an overlay zone of Commercial use.

Mr. Wagoner stated the city has a Comprehensive Plan Map and that map shows the City incorporated and unincorporated and impact area of the City and what the future plans are for those areas. It does not guarantee that those will develop as we propose it is just what we foresee as those developments. Within that area there are certain corridors that have an overlay for properties that front a major street. Those would typically be our principal and minor arterial roadways; 10th Avenue, Ustick Road, Middleton Road; those areas where you will find a higher amount of traffic and vehicles.

Mr. Mapp asked about the Development Agreement – what would you anticipate putting in the agreement without knowing what is going to be build on the property.

Mr. Wagoner stated that within the C-2 Community Commercial zone there are a number of outright allowed uses and there may be some uses the neighbors would feel would be too obtrusive regardless of landscaping. It is possible that within the development agreement we could limit some of those uses.

Mr. Mapp confirmed that the development agreement ensures the type of land use that will be considered when the property is developed.

Mr. Wagoner confirmed that was true. The Development Agreement is signed by the property owner and the Mayor and that document is recorded. It does not expire.

Mr. Mapp read the staff report and the letter from Pastor Sears indicating they have had interested buyers but without the commercial zoning already in place the property became less desirable. And that the sole purpose of the rezone is to improve the marketability.

Mr. Mapp wants to go on the record to state that this is not a reason to rezone a piece of property. You can't zone a piece of property based upon marketability. It has to be based on land use decisions only.

Mr. Monty Sears, 2003 W. Rock Creek Dr., Nampa, ID, stated that they acquired possession of the property 4 years ago by adopting a church called Living Waters. They were unable to follow

through with the development and they immediately began marketing this property in its current zone. It has come to their attention that there are buyers who are interested if it was zoned Commercial. We believe if we rezone the property there would be ample opportunities to sell the property.

Mr. Mapp asked why they haven't marketed the property with the caveat that they would pay for the application to rezone.

Mr. Sears would like to defer that question to his real estate agent.

Mr. Cody Lampman, 148 N. Yale Street, Nampa, ID testified that in marketing the property as a residential piece, he has mentioned to potential buyers it could be commercial potential but that's not something you can guarantee. He has had calls from people who were only interested if it was zoned commercial. They have had meetings with the City on the rezoning process and asked if they had to have a designated use in place prior to the rezone application, it was recommended to them that based on the Comprehensive Map that rezoning Commercial would be the highest and best use for the property.

Kelli Sears, 2003 W. Rock Creek Drive, Nampa, ID signed up in favor but chose not to speak.

William Adams, 5222 S. 10th Ave., Caldwell, ID testified that his initial opposition to this request is based on the fact that this is a financial decision and he does not see how someone can have their property rezoned simply to make it more marketable. A C-2 zoning concerns him and what type of development might be put there. There is likelihood of increased crime, loud noises, bright lights and bright signage which would deny peaceful and useful enjoyment of his property. Increased traffic means increased traffic accidents. Roadway widening should be considered prior to approving any commercial property.

Mr. Mapp indicated his concerns could be rectified in a Development Agreement.

Ms. Dixie Parker, 5301 S. 10th Ave., Caldwell, ID signed to speak for Ron Ames in case he didn't arrive in time but he has shown up so she will not speak.

Mr. Ron Ames, 5104 S. 10th Ave., Caldwell ID stated that his property is surrounded by the church property. They are trying to rezone for financial reasons, what they are asking for is way above what they paid for. That property can be sold as residential if it sold at the price it is worth. His concern is C-2 zoning and what type of use will be allowed. The property has not been well maintained in the 4 years that they've owned it.

Mr. Mapp explained that types of use can be restricted in the Development Agreement.

Mr. Timothy Rosandick, 315 E. Pat Lane, Caldwell, ID stated that to use the reason of marketing to justify a zoning change is inappropriate. It makes no sense that the City would approve a rezone because it's not marketable. It can be sold as residential if it's priced at a level where a buyer would be interested. He would like to enter into record a Quit Claim Deed that was filed

in Canyon County on August 17, 1998 relative to the property in question. It set forth a deed restriction clause that specifies that the described tract would be for residential purposes and that such residence must be above value, etc. This may not be an issue germane to this hearing but it could be a civil matter.

Mr. Wagoner entered the document as Exhibit PZ-1001.

Mr. Rosandick asked about the staff report and the landscape buffer on the back of the property. The back of that property references the western edge of the property. The back of the property would be 10th Avenue. An additional berm was mentioned along the back of the property. Landscape buffering should be along all sides protecting all the residential area.

Mr. Wagoner confirmed the landscaper buffer will be along 10th Avenue. There are no other streets that have frontage along the property.

Mr. Kendall Sohrokoff, 305 Pat Lane, Caldwell, ID stated that his concern is the property going to Commercial zone and what may or may not go in there. He understands you can limit what goes in but he recently purchased this property and the covenants indicated this was to be residential.

Mr. Mapp indicated that would be a civil matter and he has nothing to do with the covenants as the neighbors all signed to dissolve the covenants.

Mr. Sohrokoff stated his other concern is the landscape buffer doesn't include the South side. He wants to know what's included in the 15 foot buffer zone.

Mr. Wagoner stated the landscape buffer will be a 15 foot wide buffer requirement and that would be along any of those properties abutting those residential uses. It is required to have spacing of 1 (class 2) tree every 35 feet. A class 2 tree is one which grows 35 to 45 ft at maturity.

Mr. Sohrokoff asked about drainage, most of the properties drain towards the back.

Mr. Wagoner would defer that question to the City Engineer.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

Mr. Mapp stated there are a number of issues brought up this evening. The applicant is on record stating why he wants to rezone the property.

Mr. Wagoner asked if he was going to allow rebuttal.

Mr. Mapp stated the Development Agreement is a good remedy for some of the issues. The question is that the property is not marketable. The neighbors felt a church was compatible to a residential area and that fell through. He has to point out a few things; 1) only 1/3 of the property fronts 10th Ave. The idea of rezoning all the property doesn't make sense. 2) what has

been done in the past all throughout the valley in this type of case they would rezone the frontage to a commercial type of use like a doctor or lawyer's office and leave the remainder of the property as residential. The front could be commercial, allow an access to the back and have residential in the back of the property. I think the applicant needs to sit down with someone and do a design of that piece of property.

MR. MAPP OPENED THE PUBLIC TESTIMONY FOR REBUTTAL

Mr. Cody Lampman said that what brought them here is the one offer they had on the property that backed out. That got them thinking that the only real offer they had was for commercial. That's what prompted them to meet with the city to discuss the rezone. They met with City staff and after reviewing the Comprehensive Plan it seemed Commercial was the best option for rezone. They are on board to help alleviate the neighbors concerns and issues.

Mr. Mapp said he has no doubt they want to be good neighbors. He can look at this site and he thinks there is a better way than to rezone the entire parcel.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

Comprehensive Plan Analysis for **ZON-17-03 (Rezone)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **ZON-17-03 (Rezone)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **ZON-17-03 (Rezone)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

ORDER OF DECISION FOR ZON-17-03: The Hearing Examiner **RECOMMENDED** that Case Number ZON-17-03 BE DENIED based on the following:

1. He can't approve a request to rezone a piece of property, based upon, as requested by the applicant, to be able to "IMPROVE THE MARKETABILITY TO POTENTIAL BUYERS".
2. In addition, the idea of rezoning a whole parcel based upon 1/3 that would be impacted by Commercial doesn't provide proper land use planning. It is recommended that the applicant and the neighbors meet to see if they can come up with a compromise land use that would suit the applicant as well as the neighbors.
3. The recommendation of an over lay zoning doesn't work on this parcel because the parcel is affected by the C-2 zoning classification is 1/3 of the property that is located on 10th Avenue. The remainder of the property is surrounded by residential land uses. It would be more appropriate to consider residential on the larger portion in

the rear and an office type land use along 10th Avenue with access to the rear portion of the property.

4. The applicant needs to come back with a master plan that shows the land use figuration. Land use that won't be as restrictive to neighbors abutting this property.
2. **Case Number ZON-17-05:** A request by Las Brisas Apartments, LLC to rezone a portion of Parcel # R3255500000, that portion totaling 1.45 acres more or less, from R-1 (Low Density Residential) to C-2 (Community Commercial), and approval of a Development Agreement. The subject property is located at 1420 E. Ustick Road in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to rezone approximately 1.45 acres from R-1 (Low Density Residential) to C-2 (Community Commercial) with a Development Agreement. The applicant intends to construct a senior multi-family housing unit. The site plan that was in the original packet showed the apartments to the north along Ustick Road with the continuation of Indian Springs Street through the property, essentially in line with the driveway for the Lenity Assisted Living Center. Since that time the applicant is proposing to shift the apartments down further to the South so as to not extend that street through the property and leaving the balance of the portion of the property to the north for future commercial development.

Tom Mannschreck, 413 W. Idaho, Boise, ID testified that the site plan that was attached to the staff report was one that was necessary to submit the application to Idaho Housing Finance Association. Zoning is a requirement for that submittal. The idea was that if we funded, which we have, that the site plan would be moved down and we would pursue the rezone that's before you right now. A1.1 is the new site plan proposal at this time.

Mr. Wagoner entered the revised site plan as Exhibit PZ-1000

Mr. Andrew Schank, 2293 N Old Lace Ave., Kuna, ID signed up in favor but chose not to speak.

Ms. Michelle Landay, 7154 W. State Street, Suite 231, Boise, ID signed up in favor but chose not to speak.

Mr. Mapp asked what was happening with the Northern portion of the property.

Mr. Mannschreck stated that would be used for a compatible neighborhood use such as a Doctor's office. The Indian Springs street extension bears some consideration. We respectfully disagree with staff's recommendation to extend Indian Springs. We agree with staff's recommendations with exception to the memorandum that is attached to the staff report.

Mr. Mapp asked if this was a condition in the staff report.

Mr. Wagoner stated this is Condition 8.3.

Mr. Mapp stated that since this is senior living they will have to meet the requirements of the fair housing act.

Mr. Mannschreck said absolutely.

Mr. Mapp asked Jarom if he has any issues deleting Condition 8.3 regarding Indian Springs.

Mr. Wagoner stated that from a planning perspective they like to see connectivity. The City Engineer oversees Streets and can comment on this.

Mr. Mannschreck said extending Indian Springs would cut right through the middle of the revised site plan.

Mr. Mapp indicated that road doesn't extend to anything so he will not recommend it be connected. He'll leave that decision to City Council.

Mr. MacDonald indicated the memorandum did request that Indian Springs be extended through. More recently they have had discussions about it and though connectivity usually is a goal that we want to achieve from a traffic standpoint. In this case there are definitely some cons to having that connect through. Where this development will continue south of this then we see that there will connectivity coming through. With the use that's currently up there we don't see a critical connection that has to be had between the two uses here. For that reason, and also that this is just a local street, it's not part of our master plan we are certainly open to the option of not having that connect through.

Mr. Dan Sullivan, 5700 E. Franklin, Suite 160, Nampa, ID stated that he was asked by Morgan Development to attend this hearing. This is the first time he's seen this site plan. They would like Indian Springs to go through to Lenity Living Avenue.

Mr. Mapp asked why they want it to connect.

Mr. Sullivan said because it's a connection and it's a fire access. They would like a condition to have it go through.

Mr. Wagoner stated Mr. Sullivan represents the neighboring property to the West.

Mr. Mannschreck testified that the revised site plan was presented at the neighborhood meeting. They are comfortable with the fire requirements and don't see a fire access issue at all.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

In regards to the extension of Indian Springs there isn't anything on record from the Fire Department stating it is a fire issue.

Comprehensive Plan Analysis for **ZON-17-05 (Rezone)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **ZON-17-05 (Rezone)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **ZON-17-05 (Rezone)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

ORDER OF DECISION FOR ZON-17-05: The Hearing Examiner **RECOMMENDED** that Case Number ZON-17-05 BE APPROVED with the following conditions: 8.2 through 8.7 as written in the staff report with the exception of document PA-3 (Engineering Memorandum) in regards to extending Indian Springs Street.

3. **Case Number ZON-17-04/SUP-17-04**: A request by MTP Acquisitions and John Giuliani for a Comprehensive Plan Map Change from High Density Residential to Commercial with a rezone of 3.23 acres, more or less from C-4 (Highway Commercial) to C-3 (Service Commercial), and approval of a Development Agreement. Also being requested is a Special-Use Permit to construct a mini-storage unit facility. The subject property is located at 520 S. Florida Avenue (Parcel # R3513600000) in Caldwell, Idaho.

Testimony:

Jarom Wagoner, Senior Planner, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to rezone approximately 3.23 acres from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Development Agreement. The rezone will facilitate the requested SUP to construct a mini-storage complex on the site.

Mr. Wagoner stated they would like to add one additional condition that is not in the staff report in regards to landscape buffering along I84. The City is trying to enhance the visual barriers therefore there is a requirement for a 30 foot wide landscape buffer along those properties abutting I84. Additionally, in regards to the special use permit that would obviously be contingent on final approval from the City Council. If City Council does not approve the rezone and the SUP is approved tonight then obviously the approval for the SUP becomes null and void.

Mr. John Giuliani, 3605 Arthur Street, Caldwell, ID testified that as Jarom indicated they are in the process of developing a series of 4-plexes on the South Eastern part of the property. The Mini Storage would reduce traffic congestion and would be adequate complimentary use for this site. The condition regarding the landscaping buffer is something they would be fine with working towards the only consideration is a site easement on the property.

Mr. Mapp wanted clarification on the units.

Mr. Giuliani stated they were 4-plexes on the right and then the storage unit on the left.

Mr. Josh Polfer signed up in favor but decided not to speak.

Ms. Carol Jones, 2811 Hillcrest Ln., Caldwell, ID stated she signed up neutral on this request, one issue she wants to bring up is when she went to the neighborhood meeting she was told she would receive notification of the hearing and she did not receive that notification.

Mr. Mapp asked how she knew about the meeting.

Ms. Jones said a neighbor told her. One of her concerns is there is no common area and there will be 44 families living there and the little kids crossing the street to get to the playground that is on the other section with trucks and such going into the storage unit. She would like to see a bridge or something so they could get over there safely or a common area put in for them. It was mentioned that undesirable uses can be eliminated; our experience has been to the contrary.

Mr. Mapp stated that Development Agreements are based upon what the developer and Council agree upon, each one is different.

Mr. Sue Tachick, 223 Florida, Caldwell, ID stated her questions have been answered.

Elizabeth VanGorder, 504 Reece, Caldwell, ID stated the request to change from C-4 to C-3 was previously denied. She has a question for the need for a C-3 zoning for mini-storage. Does it have to be C-3 or could it be C-2 or C-1?

Mr. Wagoner stated that a mini storage is a special use permit in just two zones; C-2 and C-3.

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Mr. Wagoner stated that with a rezone to C-3 it's typically open to the uses allowed in that zone. The Development Agreement does have the ability to restrict to whatever use the City Council ultimately feels appropriate to put in the Development Agreement.

Mr. Mapp asked Mr. Giuliani to respond to Ms. VanGorder's question.

Mr. Giuliani stated it is his intention to build the storage units. The only other use he would consider would be consistent with C-3 and C-4 which would be more multi-family at some point in time.

Sue Kushlan, 121 S. Louisiana, Caldwell, ID signed up neutral but decided not to speak.

Shirley Shaft, 124 S. Florida Ave., Caldwell, ID signed up in opposition but decided not to speak.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

One more person has decided to speak neutrally.

MR. MAPP OPENED THE PUBLIC TESTIMONY.

Bonnie Minder, 504 Reece, Caldwell, ID stated it was her understanding when Mr. Giuliani originally wanted to change it to C-3 that he wanted to put in a wood place. That was denied and she was worried about him changing his mind and putting that there instead of mini-storage.

Mr. Wagoner said if the rezone is approved it would depend on the allowed uses within the C-3 zone when he wanted to convert that or implement that. It also depends on the requirements of the Development Agreement.

Mr. Giuliani has no rebuttal.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

Comprehensive Plan Analysis for **ZON-17-04 (Rezone)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **ZON-17-04 (Rezone)**: The Hearing Examiner accepted the general facts as outlined in the staff report, public testimony, and the evidence list.

Conclusions of Law for **ZON-17-04 (Rezone)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

ORDER OF DECISION FOR ZON-17-04: The Hearing Examiner **RECOMMENDED** that Case Number ZON-17-04 **BE APPROVED** with the following conditions: 8.2 through 8.6 as written in the staff report.

Comprehensive Plan Analysis for **SUP-17-04 (Special-Use)**: The Hearing Examiner accepted the comprehensive plan analysis as listed in the staff report.

Findings of Fact for **SUP-17-04 (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-17-04 (Special-Use)**: The Hearing Examiner accepted the Conclusions of Law as outlined in the staff report.

ORDER OF DECISION FOR SUP-17-04: The Hearing Examiner **ORDERED** that Case Number SUP-17-04 **BE APPROVED** with the following conditions: 12.2 through 12.6 as written in the staff report.

V. Planning Issues – None

- a. The next regularly scheduled Hearing Examiner meeting is scheduled for September 12, 2017.

VI. Adjournment

The Hearing Examiner adjourned the meeting at approximately 9:24 p.m.

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

 8/11/17 ATTEST:
Mr. Jerome Mapp Date

 8-16-17
Jarom Wagoner, Senior Planner / Development Team Leader Date

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

**RECOMMENDATION BY
THE CALDWELL HEARING EXAMINER
CITY OF CALDWELL, IDAHO
PUBLIC HEARING HELD JULY 11, 2017**

Subject: Case No. ZON-17-04/SUP-17-04 (MTP Acquisitions Rezone & SUP)

The following Land Use Action is the primary feature of this application:

- Rezone 3.23 acres, more or less, from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Comprehensive Plan Map Change from High Density Residential to Commercial and a Development Agreement
- Special-Use Permit to allow for the construction of a mini-storage facility within the C-3 (Service Commercial) Zoning District

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IX	COMPREHENSIVE PLAN ANALYSIS – SPECIAL USE PERMIT
X	FINDINGS OF FACT – SPECIAL USE PERMIT
XI	CONCLUSIONS OF LAW – SPECIAL USE PERMIT
XII	ORDER OF DECISION – SPECIAL USE PERMIT

I COURSE OF PROCEEDINGS

- 1.1 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application ZON-17-04/SUP-17-04 to be held on July 11, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, June 25, 2017, notice was published in the Idaho Press Tribune, and on, or before, June 23, 2017 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, June 29, 2017 notice was posted on the site.
- 1.2 On July 11, 2017 the Caldwell Hearing Examiner recommended **approval** of the rezone request and **approved** the special-use permit 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: John Giuliani, MTP Acquisitions, 3605 Arthur Street, Caldwell, Idaho, 83605.

2.2 REQUEST: The applicant is requesting to rezone approximately 3.23 acres from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Development Agreement. The rezone will facilitate the requested SUP to construct a mini-storage complex on the site.

2.3 COMPREHENSIVE PLAN DESIGNATION: The Caldwell Comprehensive Plan Map designation for the site is High Density Residential. The applicant is requesting to amend the Comprehensive Plan Map to Service Commercial for the site.

Service Commercial – Suitable for a wide range of retail and service uses including more intense commercial uses such as those that require large amounts of land for sales, storage or parking, light production or repair of consumer goods, and which may be less compatible with residential uses due to traffic, noise and other impacts.

2.4 COMPREHENSIVE PLAN COMPONENTS APPLICABLE TO THE REQUEST:

Land Use: The subject property is zoned R-1 (Low Density Residential) and is surrounded by:

<u>Direction</u>	<u>Zone</u>	<u>Comprehensive Map</u>	<u>Use</u>
Site	C-4	High Density Residential	Vacant Land
North	R-2	High Density Residential	Vacant Land
South	C-4	Industrial	I-84
East	C-4	High Density Residential	Vacant Land
West	R-1	Medium Density Residential	Vacant Land/Residential

2.5 Transportation/Connectivity: The subject property has frontage on the future Owyhee Lane, a local roadway.

2.6 Public Services, Utilities and Facilities: The engineering department, fire marshal, building department, police department, Canyon Hill Irrigation District, Canyon Highway District No. 4, and ITD were all sent a request for comment.

2.7 Landscaping: As per Section 10-07-02(2) of City Code, landscaping should be required for this project. City Code requires a 10-foot wide vegetative (grassed) landscape buffer along Owyhee Lane. The buffer should include a minimum of 11 Class II trees and 55 shrubs.

III PUBLIC TESTIMONY

3.1 BEFORE THE HEARING EXAMINER, July 11, 2017

Jarom Wagoner, Senior Planner, 621 Cleveland Blvd., Caldwell, ID 83605, presented the staff report and stated that the applicant is requesting to rezone approximately 3.23 acres from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Development Agreement. The rezone will facilitate the requested SUP to construct a mini-storage complex on the site.

Mr. Wagoner stated they would like to add one additional condition that is not in the staff report in regards to landscape buffering along I84. The City is trying to enhance the visual barriers therefore there is a requirement for a 30 foot wide landscape buffer along those properties abutting I84. Additionally, in regards to the special use permit that would obviously be contingent on final approval from the City Council. If City Council does not approve the rezone and the SUP is approved tonight then obviously the approval for the SUP becomes null and void.

Mr. John Giuliani, 3605 Arthur Street, Caldwell, ID testified that as Jarom indicated they are in the process of developing a series of 4-plexes on the South Eastern part of the property. The Mini Storage would reduce traffic congestion and would be adequate complimentary use for this site. The condition

regarding the landscaping buffer is something they would be fine with working towards the only consideration is a site easement on the property.

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One more person has decided to speak neutrally.

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Mr. Giuliani has no rebuttal.

MR. MAPP CLOSED THE PUBLIC TESTIMONY.

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 – REZONE

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

- 5.1 The request was found to be 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.

GOALS AND POLICIES – Population

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

Policy 1-3: 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.

GOALS AND POLICIES – Public Services, Utilities, & Facilities

Goal 1: Ensure that there are adequate public services and infrastructure to meet the needs of the public.

Policy 1-2: Provide for the orderly expansion of public services to meet the needs of population growth, and ensure that adequate infrastructure is in place to serve new development.

- 5.2 The request was not found to be inconsistent with any of the Comprehensive Plan Components.

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

VI FINDINGS OF FACT – REZONE

- 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. The proposed use is conditionally permitted by the terms of the ordinance and is subject to conditions of approval.

VII CONCLUSIONS OF LAW – REZONE

- 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 and the hearing was conducted within the guidelines of applicable Idaho Code and City ordinances.

VIII RECOMMENDATION – REZONE

- 8.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Hearing Examiner hereby recommends to the Caldwell City Council that Case Number ZON-17-04 a request by MTP Acquisitions and John Giuliani for a Comprehensive Plan Map Change from High Density Residential to Commercial with a rezone of 3.23 acres, more or less from C-4 (Highway Commercial) to C-3 (Service Commercial), and approval of a Development Agreement for the property located at 520 S. Florida Avenue (Parcel # R3513600000) in Caldwell, Idaho, is **approved** with the following conditions of approval:
- 8.2 Comply with the all applicable city codes, ordinances, policies, and standards.
- 8.3 Comply with the City Engineering Department requirements as stated in Exhibit PA-2.
- 8.4 Install a 10-foot wide landscape buffer along Owyhee Lane abutting the site. The landscape buffer shall contain a minimum of 11 Class II trees and 55 shrubs and shall contain grass and other vegetative ground cover so that the entire buffer area is covered.
- 8.5 All requirements from the Fire Department for access, turnarounds, emergency access, water supply, fire hydrants, etc. shall be met in the development of the subject property. Final approval of the location and number of fire hydrants within the development shall be determined by the Fire Marshal.
- 8.6 A development agreement, as prepared by the planning and zoning department, shall be approved by City Council in conjunction with the rezone.

IX COMPREHENSIVE PLAN ANALYSIS – SPECIAL USE PERMIT

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

9.1 The request was found to be 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 1-2: Identify potential takings of private property prior to a regulatory or administrative action on specific property.

GOALS AND POLICIES – Economic Development

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

Policy 1-3: Encourage development that generates new job opportunity.

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 1-2: Encourage commercial and industrial uses in areas that are readily accessible to regional and principal arterials and/or public transit.

GOALS AND POLICIES – Public Services, Utilities, & Facilities

GOAL 1: Ensure that there are adequate public services and infrastructure to meet the needs of the public.

Policy 1-5: Assure that a development provides adequate water supply for fire flow.

9.2 The request was not found to be inconsistent with any Comprehensive Plan Components.

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

X FINDINGS OF FACT – SPECIAL USE PERMIT

10.1 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.

XI CONCLUSIONS OF LAW – SPECIAL USE PERMIT

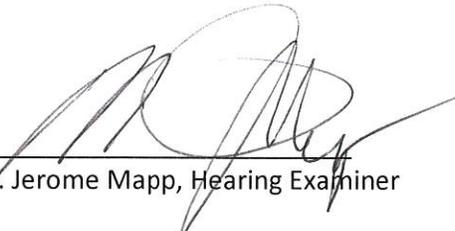
11.1 The Caldwell Hearing Examiner has the authority to hear this case and order that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of Idaho Code and City ordinances.

XII ORDER OF DECISION – SPECIAL USE PERMIT

- 12.1 Based on the Findings of Fact and Conclusions of Law, the Caldwell Hearing Examiner hereby orders that Case Number SUP-17-04 a request by MTP Acquisitions and John Giuliani for Special-Use Permit to construct a mini-storage facility within the C-3 (Service Commercial) zone for the property located at 520 S. Florida Avenue (Parcel # R3513600000) in Caldwell, Idaho is **approved** with the following conditions of approval:
- 12.2 Development of the subject property shall be consistent with all requirements, codes, rules, and regulations of the City of Caldwell, unless specifically stated otherwise in the rezone development agreement or in an Order of Decision for a preliminary plat or planned unit development.
- 12.3 Comply with the City Engineering Department requirements as stated in Exhibit PA-2.
- 12.4 Install a 10-foot wide landscape buffer along Owyhee Lane abutting the site. The landscape buffer shall contain a minimum of 11 Class II trees and 55 shrubs and shall contain grass and other vegetative ground cover so that the entire buffer area is covered.
- 12.5 All requirements from the Fire Department for access, turnarounds, emergency access, water supply, fire hydrants, etc. shall be met in the development of the subject property. Final approval of the location and number of fire hydrants within the development shall be determined by the Fire Marshal.
- 12.6 The above approval and all conditions of approval are based on final approval of the requested rezone Case File ZON-17-04. If said rezone application is not approved by the Caldwell City Council, the approval for SUP-17-04 shall be null and void.

Case Number ZON-17-04 and SUP-17-04 was heard by the Caldwell Hearing Examiner at a public hearing held July 11, 2017.

The Findings of Fact, Conclusions of Law, Recommendation, and Order of Decision were administratively approved and signed by the Caldwell Hearing Examiner on the date noted below.



M. Jerome Mapp, Hearing Examiner



Date

ATTEST:



Jarom Wagoner, Senior Planner

**ORDER OF DECISION BY THE MAYOR AND CITY COUNCIL
CITY OF CALDWELL, IDAHO
PUBLIC HEARING HELD AUGUST 7, 2017
SIGNED AUGUST 21, 2017**

Subject: Case No. ZON-17-04 (MTP Acquisitions Rezone)

The following Land Use Action is the primary feature of this application:

- Rezone 3.23 acres, more or less, from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Comprehensive Plan Map Change from High Density Residential to Commercial and a Development Agreement

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VIII	RECOMMENDATION
IX	ORDER OF DECISION

I COURSE OF PROCEEDINGS

- 1.1 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application ZON-17-04/SUP-17-04 to be held on July 11, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, June 25, 2017, notice was published in the Idaho Press Tribune, and on, or before, June 23, 2017 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, June 29, 2017 notice was posted on the site.
- 1.2 On July 11, 2017 the Caldwell Hearing Examiner recommended **approval** of the rezone request.
- 1.3 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application ZON-17-04 to be held on August 7, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, July 23, 2017, notice was published in the Idaho Press Tribune, and on, or before, July 21, 2017 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, August 27, 2017 notice was posted on the site.
- 1.4 On August 7, 2017 the Caldwell City Council **approved** the rezone request.
- 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: John Giuliani, MTP Acquisitions, 3605 Arthur Street, Caldwell, Idaho, 83605.

2.2 REQUEST: The applicant is requesting to rezone approximately 3.23 acres from C-4 (Highway Commercial) to C-3 (Service Commercial) with a Development Agreement.

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Service Commercial – Suitable for a wide range of retail and service uses including more intense commercial uses such as those that require large amounts of land for sales, storage or parking, light production or repair of consumer goods, and which may be less compatible with residential uses due to traffic, noise and other impacts.

2.4 COMPREHENSIVE PLAN COMPONENTS APPLICABLE TO THE REQUEST:

Land Use: The subject property is zoned R-1 (Low Density Residential) and is surrounded by:

<u>Direction</u>	<u>Zone</u>	<u>Comprehensive Map</u>	<u>Use</u>
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Mr. Mapp wanted clarification on the units.

Mr. Giuliani stated they were 4-plexes on the right and then the storage unit on the left.

Mr. Josh Polfer signed up in favor but decided not to speak.

Ms. Carol Jones, 2811 Hillcrest Ln., Caldwell, ID stated she signed up neutral on this request, one issue she wants to bring up is when she went to the neighborhood meeting she was told she would receive notification of the hearing and she did not receive that notification.

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Mr. Wagoner said if the rezone is approved it would depend on the allowed uses within the C-3 zone when he wanted to convert that or implement that. It also depends on the requirements of the Development Agreement.

Mr. Giuliani has no rebuttal.

Mr. Mapp closed the public testimony.

3.2 BEFORE THE CITY COUNCIL, August 7, 2017

Jarom Wagoner, 621 Cleveland Blvd., acknowledged being sworn in and outlined the contents of the staff report. He noted that a development agreement has been included with the request. He provided an aerial map of the site and noted that the site is located along the freeway but not easily accessible. The Hearing Examiner recommended approval of the application; however, the special use permit was granted contingent upon approval of the rezone request. If the rezone is not approved by City Council, the special use permit would be deemed as null and void.

Mr. Wagoner continued to explain that a mini-storage unit is only allowed within the C-2 or C-3 zones. The proposed use is consistent with the comprehensive plan and would not promote high traffic within the area. He noted that the staff report includes conditions of approval to include landscaping along the freeway corridor and tree restrictions dealing with a sign easement at the subject property.

John Giuliani, MTP Acquisitions, 3605 Arthur Street, acknowledged being sworn in and spoke in favor of the request.

In response to questions from Mayor Nancolas, discussion was held concerning the inclusion of appropriate fencing at the storage unit site along the freeway.

Josh Polfer, MTP Acquisitions, 3605 Arthur Street, signed as in favor of the request but did not provide public testimony.

Phyllis Jewett, 403 Hill Lane, acknowledged being sworn in and asked for clarification concerning the request. She signed in opposition to the request.

Mayor Nancolas and Mr. Giuliani provided an explanation of the request for a rezone. The location of the storage units and housing units as indicated on the aerial map were referenced.

Elizabeth VanGorder, 504 Reece, acknowledged being sworn in and spoke in opposition to the request. She noted that the C-2 zoning classification is appropriate for the mixed used area. She inquired if the C-3 is granted, could the plan change to allow other uses.

Jarom Wagoner, clarified that if the rezone is granted, the development agreement can be customized by City Council to restrict various development and usage options.

Ms. VanGorder asked when the additional four-plex units were approved.

Mr. Wagoner responded that the current zoning allows for multi-family units without a special use permit.

Ms. VanGorder expressed her concern with the allowance of the four-plex units without public comment.

The Mayor reported that allowed uses must comply with the City Code as it relates to construction and landscaping.

Mr. Giuliani did not provide rebuttal testimony.

Councilman Pollard asked for clarification regarding the land-use table for the C-3 zone permitted uses.

Jarom Wagoner clarified the restrictions and the required special use permit uses within the C-2 and C-3 zones as indicated within City Code.

Aaron Seable explained that the request has come before City Council with approval of the special use permit contingent upon approval of the C-3 zone and has been publicly noticed to this extent.

Councilman Callsen expressed his opinion in favor of the request and its appropriateness with the comprehensive plan map.

MOVED by Callsen, SECONDED by Ozuna to close the public testimony portion of the hearing.

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 City Council accepts the Comprehensive Plan Components as listed below.

- 5.1 The request was found to be 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.

GOALS AND POLICIES – Population

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

Policy 1-3: 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.

GOALS AND POLICIES – Public Services, Utilities, & Facilities

Goal 1: Ensure that there are adequate public services and infrastructure to meet the needs of the public.

Policy 1-2: Provide for the orderly expansion of public services to meet the needs of population growth, and ensure that adequate infrastructure is in place to serve new development.

- 5.2 The request was not found to be inconsistent with any of the Comprehensive Plan Components.

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 and the hearing was conducted within the guidelines of applicable 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 Caldwell City Council that Case Number ZON-17-04 a request by MTP Acquisitions and John Giuliani for a Comprehensive Plan Map Change from High Density Residential to Commercial with a rezone of 3.23 acres, more or less from C-4 (Highway Commercial) to C-3 (Service Commercial), and approval of a Development Agreement for the property located at 520 S. Florida Avenue (Parcel # R3513600000) in Caldwell, Idaho, is **approved** with the following conditions of approval:
- 8.2 Comply with the all applicable city codes, ordinances, policies, and standards.
- 8.3 Comply with the City Engineering Department requirements as stated in Exhibit PA-2.
- 8.4 Install a 10-foot wide landscape buffer along Owyhee Lane abutting the site. The landscape buffer shall contain a minimum of 11 Class II trees and 55 shrubs and shall contain grass and other vegetative ground cover so that the entire buffer area is covered.
- 8.5 All requirements from the Fire Department for access, turnarounds, emergency access, water supply, fire hydrants, etc. shall be met in the development of the subject property. Final approval of the location and number of fire hydrants within the development shall be determined by the Fire Marshal.

8.6 A development agreement, as prepared by the planning and zoning department, shall be approved by City Council in conjunction with the rezone.

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-17-04 a request by MTP Acquisitions and John Giuliani for a Comprehensive Plan Map Change from High Density Residential to Commercial with a rezone of 3.23 acres, more or less from C-4 (Highway Commercial) to C-3 (Service Commercial), and approval of a Development Agreement for the property located at 520 S. Florida Avenue (Parcel # R3513600000) in Caldwell, Idaho, is **approved** with the following conditions of approval:

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

9.3 Comply with the City Engineering Department requirements as stated in Exhibit PA-2.

9.4 Install a 10-foot wide landscape buffer along Owyhee Lane abutting the site. The landscape buffer shall contain a minimum of 11 Class II trees and 55 shrubs and shall contain grass and other vegetative ground cover so that the entire buffer area is covered.

9.5 Install a 30-foot wide landscape buffer along the I-84 frontage abutting the site. The landscape buffer shall be grassed and contain a minimum of 1 Class II tree every 35 feet. There shall be no tree requirement within the existing sign easement, but rather shall contain a number of shrubs equivalent to 7 shrubs for every 1 tree not installed.

9.6 All requirements from the Fire Department for access, turnarounds, emergency access, water supply, fire hydrants, etc. shall be met in the development of the subject property. Final approval of the location and number of fire hydrants within the development shall be determined by the Fire Marshal.

9.7 A minimum 6-foot tall solid, sight-obscuring fence shall be installed along the perimeter of the property.

9.8 Any uses permitted within the C-3 (Service Commercial) zone, other than the currently approved min-storages, shall require approval through a Special-Use Permit process.

9.9 A development agreement, as prepared by the planning and zoning department, shall be approved by City Council in conjunction with the rezone.

Case Number ZON-17-04 was heard by the Mayor and City Council at a public hearing held August 7, 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 August 21, 2017.



Mayor Garret L. Nancolas



ATTEST:


City Clerk (Deputy)