



CITY OF Caldwell, Idaho

July 7, 2017 HE

Planning & Zoning

HEARING REVIEW APPLICATION

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

STAFF USE ONLY:

File number(s): 2017-03

Project name: 5106 S 10th Rezone

Date filed: 5-16-2017 Date complete:

Related files:

Subject Property Information

R 2503000000

Address: 5106 S. 10th Ave Caldwell 83605 Parcel Number(s): C 66400000 20B

Subdivision: Orchard Heights Block: Lot: 20 Acreage: 5 Zoning: R

Prior Use of the Property: residential - single family

Proposed Use of the Property: rezone to C-2

Applicant Information:

Applicant Name: Christian Faith Center Phone: (208) 467-7777

Address: 31 S Midland Blvd City: Nampa State: ID Zip: 83651

Email: ksears@experiencecfc.com Cell: (208) 821-7282

Owner Name: CFC / Monty Sears Phone:

Address: same as above City: State: Zip:

owner Email: msears@experiencecfc.com Cell: (208) 871-7100

Agent Name: (e.g., architect, engineer, developer, representative) Realtor Colby Lampman

Address: City: State: Zip:

Email: colby@homes Cell:

Authorization

Print applicant name: Monty Sears

Applicant Signature: [Signature] Date: 5/10/17

AH



CITY OF
Caldwell, Idaho

Planning & Zoning

REZONE

Project Name: <u>Commercial Rezoning (C-2)</u>	File #: <u>ZON-17-032</u>
Applicant/Agent: <u>Christian Faith Center</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	✓
N/A	Signed Property Owner Acknowledgement (if applicable)	N/A
	Vicinity map, showing the location of the subject property	✓
✓	Site Plan	N/A
	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	✓
N/A	Landscape Plan (if applicable)	N/A
	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: 5-16-2017
 Received by: al
 Proposed Hearing Date: 7-11-17
 Hearing Body: HE

A



CHRISTIAN FAITH CENTER

PHONE - (208)467-7777

31 S. MIDLAND BLVD.
NAMPA, ID 83651

www.experiencecfc.com

May 11, 2017

To Whom It May Concern:

This letter is in regards to an application we are submitting for a rezoning of the property at 5106 S. 10th Ave., Caldwell, Idaho 83605. It is currently zoned for a single family residence. We took possession of this property through our adoption of a smaller church in 2013. They had purchased the property with the intention to build a church on that site and began that process. They were unable to complete the project and then we took ownership. It doesn't suit our purposes as a building site. We have marketed the property for sale since the time we took possession and have had interested buyers but without the commercial zoning already in place our property became less desirable. Our sole purpose for rezoning this property is to improve the marketability to potential buyers. Thank you for your consideration in this matter.

Respectfully yours,

Monty Sears
Senior Pastor



MAIN CAMPUS
31 S Midland Blvd
Nampa ID, 83651

DOWNTOWN CAMPUS
404 12th Ave S
Nampa ID, 83651

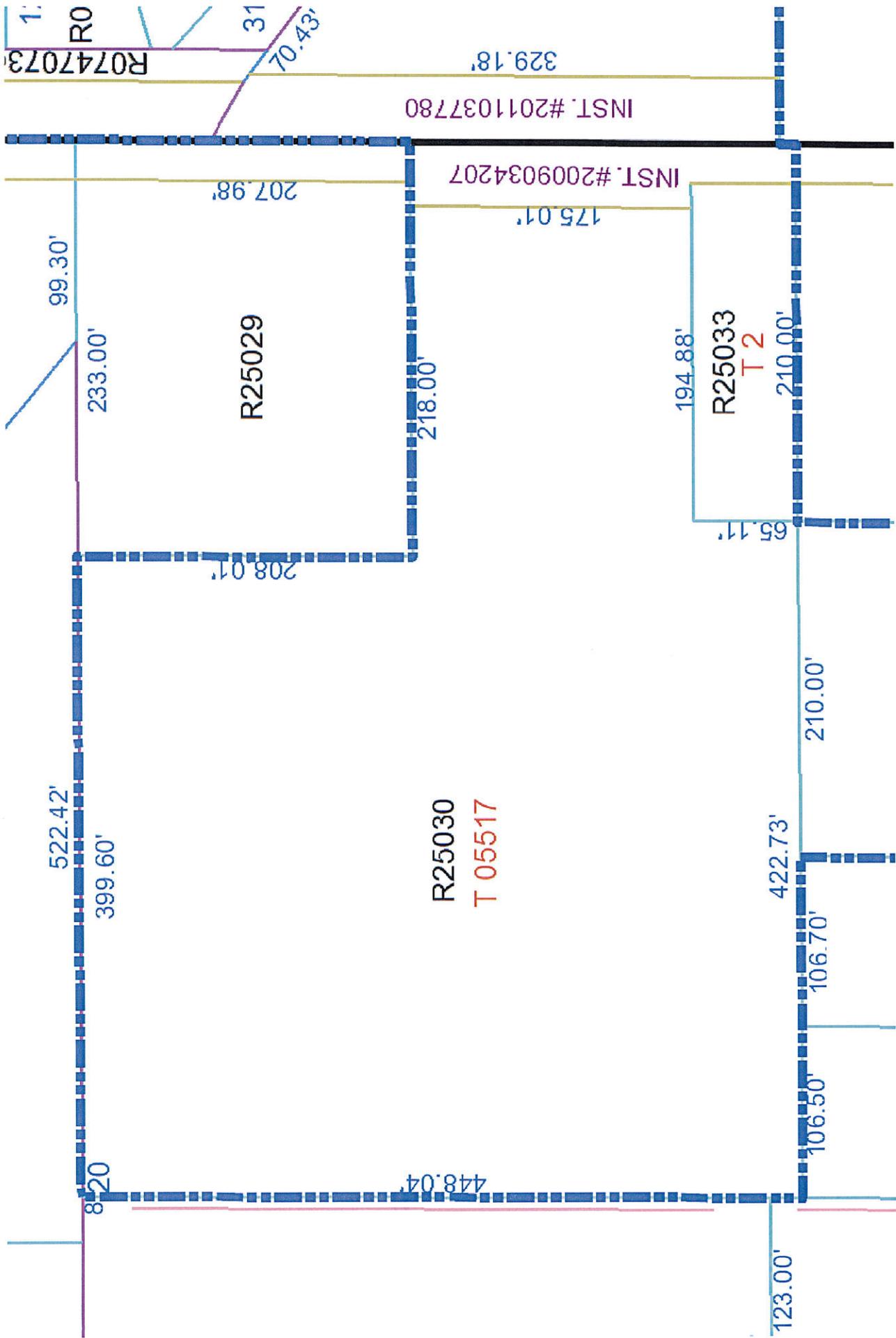
CALDWELL CAMPUS
301 S 34th Ave.
Caldwell, Idaho 83605

OROVILLE CAMPUS
1235 Lincoln St
Oroville CA, 95965

NAMPA LATINO
31 S Midland Blvd
Nampa ID, 83651

CALDWELL LATINO
301 S 34th Ave.
Caldwell, Idaho 83605

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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: 10 a.m. 5-5-2017

End Time of Neighborhood Meeting: 10:55 a.m.

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. <u>Gollin Roberts</u> | <u>107 Gold Strike court / Caldwell, ID 83607</u> |
| 2. <u>MARY AMES</u> | <u>5104 S. 10th Ave Caldwell ID 83607</u> |
| 3. <u>KARIE Adams</u> | <u>5222 S. 10th AVE Caldwell ID 83607</u> |
| 4. <u>Jodi Hallingstad</u> | <u>106 Gold Strike Ct. Caldwell ID 83607</u> |
| 5. <u>Dobbie Perkins</u> | <u>5415 Bear Ln, Caldwell, ID 83607</u> |
| 6. <u>Charlotte Zaugg</u> | <u>221 W. Pat Lane, Caldwell 83607</u> |
| 7. <u>Robin Crawford</u> | <u>5107 S. 10th Ave Caldwell 83607</u> |
| 8. <u>Mary Nelson</u> | <u>219 E. Pat Lane Cald, 83607</u> |
| 9. _____ | _____ |
| 10. _____ | _____ |
| 11. _____ | _____ |
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| 15. _____ | _____ |
| 16. _____ | _____ |
| 17. _____ | _____ |
| 18. _____ | _____ |
| 19. _____ | _____ |

AS

- 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: Rezoning to Commercial (C-2)

Date of Round Table meeting: 5/8/17 4-14-17 2pm (Jerom Wagoner)

Notice sent to neighbors on: 4-21-17

Date & time of the neighborhood meeting: 5-5-17 10 am

Location of the neighborhood meeting: Site of property 5106 S. 10th Ave
Caldwell

Developer/Applicant:

Name: Christian Faith Center

Address, City, State, Zip: 31 S. Midland Blvd Nampa ID 83651

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 [Signature] DATE 5/18/17

AS

Corporation Warranty Deed

For value received,

Living Waters Worship Center, Inc., a dissolved Idaho Corporation

the grantor, does hereby grant, bargain, sell, and convey unto

Christian Faith Center Assembly of God, Inc., an Idaho Corporation

whose current address is: 31 South Midland Blvd., Nampa ID 83651

the grantee, the following described premises, in Canyon County, Idaho, to wit:

See Exhibit "A" Attached Hereto

To have and to hold the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

In witness whereof, the Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed.

Dated: December 6, 2013

Living Waters Worship Center, Inc.

By: [Signature]
Wendell Ivie, Treasurer

By: [Signature]
Kitty L Johnson, Secretary

2013-056023

RECORDED

12/16/2013 01:26 PM



00083667201300560230300304

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=30 RECORD1

\$97.00

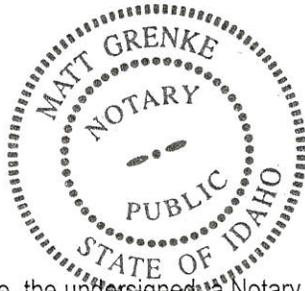
DEED

CHRISTIAN FAITH CENTER

State of Idaho, County of Ada, ss.

On this 6th day of December in the year of 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Wendell Ivie known or identified to me to be the Treasurer of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

[Signature]
Notary Public Residing In Star Idaho
My Commission Expires: My Commission Expires 7/9/2017
(seal)



A10

State of Idaho, County of Ada, ss.

On this 6th day of December in the year of 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Kitty L. Johnson known or identified to me to be the Secretary of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

[Signature]
Notary Public
My Commission Expires:
(seal)



Residing In Star Idaho
My Commission Expires 7/9/2017

A parcel of land situate in the Northeast Quarter of the Southeast Quarter of Section 4, Township 3 North, Range 3 West, Boise Meridian, Canyon County, Idaho, being a portion of Lot 20 of ORCHARD HEIGHTS SUBDIVISION, Book 2 of Plats at Page 38, records of Canyon County, Idaho, and being more particularly described as follows:

COMMENCING at a found 5/8 inch rebar marking the Southeast corner of the Northeast Quarter of the Southeast Quarter; thence
South 89° 06' 52" West, 25.00 feet along the South line of the Northeast Quarter of the Southeast Quarter; thence
North 00° 21' 53" West, 25.00 feet parallel to the East line of the Northeast Quarter of the Southeast Quarter to the Southeast corner of Lot 20; thence
North 00° 21' 53" West, 638.17 feet along the East line of said Lot 20 to the Northeast corner of said Lot 20; thence
South 89° 06' 13" West, 233.01 feet along the North line of said Lot 20 to a found 5/8 inch rebar, the POINT OF BEGINNING; thence
South 00° 21' 53" East, 208.01 feet parallel to the aforesaid East line of Lot 20 to a found bent ½ inch rebar reset with a 5/8 inch rebar; thence
North 89° 06' 13" East, 233.01 feet parallel to the aforesaid North line of Lot 20 to a found ½ inch rebar on the aforesaid East line of Lot 20; thence
South 00° 21' 53" East, 175.01 feet along the said East line of Lot 20 to a set 5/8 inch rebar; thence
South 89° 06' 13" West, 210.01 feet parallel to the aforesaid North line of Lot 20 to a set 5/8 inch rebar; thence
South 00° 21' 53" East, 65.11 feet parallel to the aforesaid East line of Lot 20 to a point witnessed by a 5/8 inch rebar which bears North 00° 21' 53" West, 1.00 feet; thence
South 89° 06' 52" West 422.73 feet parallel to the aforesaid South line of Lot 20 to a set 5/8 inch rebar on the East line of the West 8 feet of said Lot 20; thence
North 00° 20' 54" West, 448.04 feet along the said East line of the West 8 feet of Lot 20 to a found 5/8 inch rebar on the aforesaid North line of Lot 20; thence
North 89° 06' 13" East, 399.60 feet along the said North line of Lot 20 to the POINT OF BEGINNING.

EXCEPTING THEREFROM:

That portion deeded to The City of Caldwell, Idaho, a Municipal Corporation by Quit Claim Deed recorded July 7, 2009, as Instrument No. 2009034207 and being more particularly described as follows:

A10

A 15 foot wide strip of land for additional Right of Way for South Tenth Street, located in the NE¼SE¼ of Section 4, Township 3 North, Range 3 West, Boise Meridian, City of Caldwell, Canyon County, Idaho, described as follows:

COMMENCING at the Northeast corner of said NE¼SE¼ (East ¼ corner of said Section 4); thence South 00° 22' 05" East, 871.19 feet along the East line of said Section 4 (centerline of South Tenth Street); thence South 89° 06' 13" West, 25.00 feet to a point in the West sideline of said South Tenth Street and the POINT OF BEGINNING; thence South 00° 22' 05" East, 175.01 feet along said West sideline; thence South 89° 06' 12" West, 15.00 feet; thence North 00° 22' 05" West, 175.01 feet; thence North 89° 06' 13" East, 15.00 feet to the POINT OF BEGINNING.

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.

Ms. VanGorder asked if this changed to C-3 as requested can he go ahead with any construction allowed for this parcel. Is he committed to the mini storage or can he change it.

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.

**ORDER OF DECISION BY THE MAYOR AND CITY COUNCIL
CITY OF CALDWELL, IDAHO
PUBLIC HEARING HELD SEPTEMBER 5, 2017
SIGNED SEPTEMBER 18, 2017**

Subject: Case No. ZON-17-03 (Christian Faith Center Rezone)

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

- Rezone 5.02 acres, more or less, from R-1 (Low Density Residential) to C-2 (Community Commercial) with a Development Agreement

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I COURSE OF PROCEEDINGS

- 1.1 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application ZON-17-03 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 **denial** of the rezone request.
- 1.3 The Caldwell Planning and Zoning Department issued a notice of Public Hearing on application ZON-17-03 to be held on September 5, 2017. Public notice requirements set forth in Idaho Code, Chapter 65, Local Planning Act, were met. On, or before, August 20, 2017, notice was published in the Idaho Press Tribune, and on, or before, August 18, 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 24, 2017 notice was posted on the site.
- 1.4 On September 5, 2017 the Caldwell City Council **denied** 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: Monty Sears, Christian Faith Center, 31 S. Midland Boulevard, Nampa, Idaho, 83651.

2.2 REQUEST: 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.

2.3 COMPREHENSIVE PLAN DESIGNATION: The Caldwell Comprehensive Plan Map designation for the site is Low Density Residential. The Caldwell Comprehensive Plan Section 5 Table 15 indicates a business zoning classification along this section of 10th Avenue as C-1 (Neighborhood Commercial) or C-2 (Community Commercial).

Community Commercial – Suitable for a broad range of retail, service and professional businesses clustered in areas such as a shopping center which may be anchored by one or more large retail establishments.

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	R-1	Commercial	Vacant Land
North	C-2	Commercial	Residential/Mini-Storage
South	R-1	Low Density Residential	Residential
East	C-1	Commercial	Residential
West	County	Low Density Residential	Vacant Land/Residential

2.5 Transportation/Connectivity: The subject property has frontage on 10th Avenue, a minor arterial roadway.

2.6 Public Services, Utilities and Facilities: The engineering department, fire marshal, building department, police department, Wilder Irrigation, Canyon Highway No. 4 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 20-foot wide vegetative (grassed) landscape buffer along 10th Avenue. The buffer should include a minimum of 5 Class II trees and 25 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 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.

3.2 BEFORE THE CITY COUNCIL, September 5, 2017

Jarom Wagoner, 621 Cleveland Blvd., acknowledged being sworn in and outlined the contents of the staff report. He noted that the Hearing Examiner denied the request based on the limited proposals of the property and that the request appeared to be strictly for financial gain rather than for land-use purposes. He has since met again with the applicant to clarify the reasoning for the rezone.

Mr. Wagoner noted that 10th Avenue has been classified as a minor arterial roadway and the Comprehensive Zone Map indicates the property for commercial use. If the case is approved, conditions have been included in the staff report addressing required buffering to the existing residences within the area, an approved landscape plan along 10th Avenue, and proper access for the Fire Department due to the length of the property.

Garrison Michon, 4115 Idaho Avenue, signed as neutral to the request but did not provide public testimony.

Jordan Hodges, 1009 S. Spring Valley Drive, Nampa, signed in favor of the request but did not provide public testimony.

Colby Lampman, 828 West Tropical Drive, Nampa, acknowledged being sworn in and spoke in favor of the request. He outlined a plan to buffer the proposed use from the existing residential parcels with trees being planted every ten feet. He also proposed a restricted use on the back portion of the parcel with commercial use at the front part. He provided a draft site plan of a proposed use of the subject parcel with four-plex units. He noted that potential buyers have suggested storage units or a four-plex housing development. The Mayor labeled the drawing as CC-1000.

In response to questions from Councilman Pollard, Mr. Lampman stated that they have been contacted by interested parties in the parcel. He noted that the site plan provided to Mayor Nancolas was provided by one of the interested buyers. All interested buyers have indicated that the parcel must be rezoned to commercial before an offer would be submitted.

In response to questions from Councilman Callsen, Mr. Lampman stated that the buffer zone would be included to the south. The parcel on the west side is currently vacant and a buffer zone for that space had not been considered at this time. He clarified; however, that any buffers necessary to comply with the approval would be considered.

In response to questions from Councilman Allgood, Mr. Lampman stated that some of the curb/gutter/sidewalk improvements could be installed by the current owner.

In response to questions from Councilman Stadick, Mr. Lampman stated that the previous owner was Living Waters Church. Living Waters Church was acquired by Christian Faith Center; however, it was not the intent of Christian Faith Center to develop the site.

Kelli Sears, 2003 W. Rock Creek, Nampa signed in favor of the request but did not provide public testimony.

Monte Sears, 2003 W. Rock Creek, Nampa, signed in favor of the request but did not provide public testimony.

Ron Aims, 5104 South 10th Avenue, acknowledged being sworn in and spoke in opposition to the request. He noted that the previous owner placed a berm on the site which drains water into their home's crawl space during storms. He noted that the parcel was originally part of the Orchard Heights Subdivision which was platted as a single-family subdivision within Canyon County. The Hearing Examiner recommended that the owner schedule a meeting with the local residents to discuss the proposed zone change. No meeting has been scheduled with the neighbors. He expressed his concern regarding traffic control issues associated with sixteen potential four-plex units being developed at the site.

Tim Rosandick, 315 Pat Lane, acknowledged being sworn in and spoke in opposition to the request. He expressed his concern with neighboring property values being affected with the proposed commercial uses. He reported that the Hearing Examiner denied the property based merely on the church's desire to sell the property at commercial values and thereby deemed the request as spot zoning. He requested that 10th Avenue remain as a Gateway Corridor with single-residential homes. There is a restricted deed recorded on the subject property.

In rebuttal, Mr. Lampman reported that he was not able to locate any deed restriction for the parcel. He noted that the developer is desirous of building four-plex units on the site and wants to move forward with the purchase, if the parcel is rezoned.

In response to questions from Councilman Callsen, Mr. Lampman stated that the proposed four-plex unit development has not been reviewed by staff.

In response to questions from Councilman Pollard, Mr. Lampman stated that the church chose not to meet with the neighbors but rather bring a proposal to the public meeting.

In response to questions from Councilman Callsen, Mr. Hilty explained appropriate zoning versus spot zoning as referenced by the Hearing Examiner. He noted that any zoning request must concur with the Comprehensive Plan as an overall plan for the community.

In response to questions from Councilman Callsen, Mr. Wagoner reported about the acreage located to the west of the property is located within Canyon County. Most of the surrounding land use in the locality is open agricultural with sporadic residential.

In response to questions from Councilman Hopper, Mr. Wagoner clarified that the current rezone request references a single parcel.

In response to questions from Councilman Allgood, Mr. Wagoner noted that the parcel was platted within Canyon County, most likely in the 1960s or 1970s.

In response to questions from Councilman Callsen, Mr. Aims reported that the property located to the west of the site is being used for horse pasture.

Mayor Nancolas asked if Mr. Lampman had any final comments after the additional testimony. Mr. Lampman declined making any rebuttal comments.

MOVED by Callsen, SECONDED by Pollard 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 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 – Economic Development

Goal 1: Promote economic development initiatives relating to housing, business, jobs, schools, recreational opportunities, infrastructure systems, public utilities and facilities, and public services.

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 1-2: 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. The proposed use is conditionally permitted by the terms of the ordinance and is subject to conditions of approval.

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-17-03 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 for the property located at 5106 S. 10th Avenue (Parcel # R2503000000) in Caldwell, Idaho, is **denied** for the following reasons:

- 8.2 Hearing Examiner cannot approve a request to rezone a piece of property, based solely upon, as requested by the applicant, to be able to "IMPROVE THE MARKETABILITY TO POTENTIAL BUYERS".

- 8.3 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.

- 8.4 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.

- 8.5 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.

IX ORDER OF DECISION

- 9.1 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-17-03 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 for the property located at 5106 S. 10th Avenue (Parcel # R2503000000) in Caldwell, Idaho, is **denied**.

Case Number ZON-17-03 was heard by the Mayor and City Council at a public hearing held September 5, 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 September 18, 2017.



Mayor Garret L. Nancolas

ATTEST:



City Clerk