CITY COUNCIL SPECIAL MEETING AGENDA

Thursday

August 6, 2026

7:00 P.M.

Mayor

Lisa Burtenshaw

City Council

Jim Francis
Council President, Seat 4

Brandon Lee
Council Seat 2

John Radford
Council Seat 5

Jim Freeman
Council Seat 6

Kirk Larsen
Council Seat 3

Michelle Ziel-Dingman
Council Seat 1

Livestream at www.idahofallsidaho.gov/429/Live-Stream

PUBLIC PARTICIPATION

Welcome to the Idaho Falls City Council Meeting.

Regularly scheduled City Council meetings are open to the general public. City Council meetings are also live-streamed and archived on the City website. Please be aware that the meeting agenda will differ from the published version if amendments to the agenda are made by the Council during the meeting.

The Council encourages public input. While a general public comment option is not required by Idaho law, the Idaho Falls City Council welcomes general public input as part of regular City Council meetings. General public comment will be allowed for up to 20 minutes. However, citizens are always welcome to contact their Council representatives via e-mail or telephone, as listed on the City website. The Council is committed to an atmosphere that promotes equal opportunity, civility, mutual respect, proper decorum and freedom from discrimination or harassment.

Those who wish to address City Council during the council meetings are encouraged to adhere to the guidelines below.

Public Comment Guidelines

Speakers are encouraged to:

- State their name and city of residence.
- Focus comments on matters within the purview of the City Council. Limit comments to three (3) minutes or less.
- Refrain from repeating information already presented to preserve time for others to speak. Large groups are encouraged to select one or two speakers to represent the voice of the entire group.
- Practice civility and courtesy. City leaders have the right and the responsibility to maintain order and decorum during the meeting. Time may be curtailed for those speakers whose comments are profane or disruptive in nature.
- Refrain from comments on issues involving matters currently pending before the City's Planning and Zoning Commission or other matters that require legal due process, including public hearings, City enforcement actions, and pending City personnel disciplinary matters.
- Comments that pertain to activities or performance of individual City employees should be shared directly with the City's Human Resources Department (208-612-8248), the City's Legal Department (208-612-8178) or with the Office of the Mayor (208-612-8235).

Public Hearing Guidelines

- **In-Person Testimony.** Because public hearings must follow various procedures required by law, please wait to offer your testimony until invited/indicated. Please address Council directly and try to limit your time to three (3) minutes.
- **Written Testimony.** The public may provide written testimony via postal mail sent to City Hall or via email sent to the City Clerk at IFClerk@idahofalls.gov. Testimony will be distributed to the members of the Council and become a part of the official public hearing record. Written testimony must be received no later than forty-eight (48) hours prior to the date of the hearing to ensure inclusion in the permanent City record.

If you need communication aids or other physical accommodations to attend or access this meeting, please contact the City Clerk at (208) 612-8414 or the ADA Coordinator at (208) 612-8323 prior to the meeting. They will help accommodate special needs wherever possible.

1. Call to Order & Roll Call

2. Pledge of Allegiance

3. Public Comment

Please see guidelines on page 2.

Action Item:

4. Regular Agenda

A) Community Development Services:

Quasi-Judicial Public Hearing-Request for Reconsideration of the decision to approve the application for the Planned Unit Development, PUD25-002, for Willows Place Townhomes for the property located at 1080 S Bellin Road. **26-258**

Attached is the reconsideration application for the Willows Place Townhomes Planned Unit Development located at 1080 S Bellin Road and the proposed Reasoned Statement of Relevant Criteria and Standards from staff. The City Council has the option to affirm, reverse, or modify its June 25, 2026, decision.
The following is a chronology of events regarding the Planned Unit Development and subsequent request for reconsideration and appeal.

- On October 7, 2025, the Planning and Zoning Commission recommended to the City Council, by a 5 to 1 vote, approval of Willows Place Townhomes PUD.
- On January 22, 2026, the City Council unanimously voted to deny Willows Place Townhomes PUD.
- On February 26, 2026, a request for reconsideration of the decision was filed by the applicant with the Planning Division.
- On April 23, 2026, the Mayor and City Council signed the written decision to deny the reconsideration of Willow's Place Townhomes PUD with a vote of 3-2.
- On April 30, 2026, the applicant, Bear Hunter Holdings, LLC, filed a mediation request with the Planning Division.
- On May 14, 2026, mediation between the City of Idaho Falls and Bear Hunter Holdings, LLC for Willow's Place Townhomes PUD was held.
- On June 25, 2026, the City Council unanimously approved the revised PUD per the approved Mediation Agreement for Willow's Place Townhomes as presented.
- On July 09, 2026, a request for reconsideration of the decision was filed by the

surrounding property owners with the Planning Division.

Action Item(s):

To (affirm, modify, or reverse) the decision of the City Council to approve the Willows Place Townhomes Planned Unit Development and to direct staff to prepare a written decision (or take other action deemed appropriate).

Attachments:
Request Reconsideration Part 1
Request Reconsideration Part 2
Willows Place adjusted base concept
Public Testimony Willows Place Neighbor Reconsideration August 6 2026
PUD25-002 Reasoned Statement 2026.07.31

5. Announcements

6. Adjournment

Memorandum

File #: 26-258 **City Council**

DATE: Tuesday, July 21, 2026
FROM: Wade Sanner, Director

AGENDA: Regular
DEPARTMENT: Community Development Services

Title
Quasi-Judicial Public Hearing-Request for Reconsideration of the decision to approve the application for the Planned Unit Development, PUD25-002, for Willows Place Townhomes for the property located at 1080 S Bellin Road.

☐ Ordinance
☒ Quasi-Judicial Public Hearing
☐ Confirmation/Consent/Acceptance
☐ Resolution
☐ Legislative Public Hearing
☒ Approval/Authorization/Ratification

Action(s) Requested:
To (affirm, modify, or reverse) the decision of the City Council to approve the Willows Place Townhomes Planned Unit Development and to direct staff to prepare a written decision (or take other action deemed appropriate).

Description, Background Information, Purpose:
Attached is the reconsideration application for the Willows Place Townhomes Planned Unit Development located at 1080 S Bellin Road and the proposed Reasoned Statement of Relevant Criteria and Standards from staff. The City Council has the option to affirm, reverse, or modify its June 25, 2026, decision.
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This item has been reviewed by the City Legal and CDS staff.

BEFORE THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

In Re: Application for Plan Unit Development for Willows Place Townhomes, by affected persons

REQUEST FOR RECONSIDERATION

The undersigned are affected persons and pursuant to Idaho Code Section 67-6535(2)(b), timely requests the city council of the City of Idaho Falls reconsider and reverse its Reasoned Statement of Relevant Criteria and Standards (Decision) dated June 25, 2026, and the actions taken during city council meeting on Thursday, May 21, 2026, wherein city council approved the mediation agreement for Willows Place Townhomes (Planned Unit Development).

The grounds upon which this request is taken is that the council's Decision was arbitrary, and capricious and an abuse of discretion and was a violation of procedural due process.

STANDARD OF REVIEW

Inasmuch as the process and procedure utilized by the city council in this matter is the focus of this request, the critical question is whether the council's "preapproval" of the mediation proposal in May rendered the subsequent public hearing on the new "PUD Application" a mere formality, which constitutes a violation of procedural due process. Due process requires an opportunity to be heard at a meaningful time and in a meaningful manner. *Cowan v. Bd of Comm'rs Fremont Cnty.*, 143 Idaho 501, 148 P.3d 1247 (2006). It is the position of the affected persons that the time and place for a public hearing was at the time and place when the mediation proposal was set before the city council for approval or disapproval.

THE CITY COUNCIL'S APPROVAL OF THE MEDIATION PROPOSAL WITHOUT A PUBLIC HEARING AND WITHOUT PUBLIC COMMENT WAS ARBITRARY, CAPRICIOUS AND AN ABUSE OF DISCRETION, TOGETHER WITH BEING A VIOLATION OF PROCEDURAL DUE PROCESS

Under Idaho's Local Land Use Planning Act (LLUPA), if a mediation occurs after a final decision has already been made, any resolution of differences through mediation must be the subject of another public hearing before the decision-making body. This means the mediation agreement cannot simply be adopted by the city council without first going through a public hearing process.

Idaho Code Section 67-6510 governs mediation in land use proceedings under LLUPA. The procedure established for the processing of application includes the option of mediation upon the written request of the applicant, an affected person, the zoning or planning and zoning commission, or the governing board. Idaho Code 67-6510. Mediation may occur at any point during the process or after a decision has been made. The statute draws a critical distinction based on timing: If mediation occurs after a final decision, any resolution of differences through mediation must be the subject of another public hearing before the decision-making body. Idaho Code Section 67-6510. This means that a mediation agreement reached post-decision cannot be implemented by the city council without first holding a new public hearing. The council cannot simply approve a mediation agreement in isolation. A public hearing is a prerequisite to acting on the resolution, not a subsequent formality.

Under Idaho Code Section 67-6515, planned unit developments must be permitted pursuant to procedures for processing applications for special use permits, following the notice and hearing procedures provided in Idaho Code 67-6512. See Idaho Code Section 67-6515. Section 67-6512 requires that prior to granting a special use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held. Idaho Code 67-6512. This public

hearing requirement applies to PUD applications and cannot be bypassed by a mediation agreement.

It is understood that the mediation process is allowed under LLUPA, but the statutory framework provides that the mediation process shall not be part of the official record regarding the application. See Idaho Code Section 67-6510.

The procedure utilized by the city council in this instance is problematic under Idaho law. Here the city council denied an application and then initiated a mediation procedure that produced a resolution. Idaho Code Section 67-6510 requires that any resolution of differences through post-decision mediation must be the subject of another public hearing before the decision-making body. See Idaho Code Section 67-6510. The council could not simply "approve" the mediation proposal before the public hearing – the public hearing itself is the required procedural step where the mediation resolution is presented and considered.

The critical flaw in the procedure utilized by the city council is the city council's approval of the mediation proposal before holding the public hearing. Under LLUPA, the approval or denial of the application must be based upon standards and criteria set forth in the zoning ordinance, or other appropriate ordinance and must be in writing and accompanied by a reasoned statement explaining the criteria, contested facts, and rationale for the decision. Idaho Code Section 67-6535. The council cannot, by finesse or by having a subsequent public hearing, bypass the requirement by preapproving a mediation agreement. Instead, in this instance, the mediation proposal should have been presented at a public hearing where the council then evaluates it against the applicable standards and criteria, allows public participation, and issues a reasoned statement explaining its decision.

The correct procedure would have been: (1) denial of the original application, (2) mediation producing a proposal, (3) public hearing where the mediation proposal is presented and the public has an opportunity to be heard, and (4) a council decision based upon applicable standards with a written reasoned statement. The council's preapproval of the mediation proposal before the public hearing undermines the public hearing requirement and constitutes arbitrary and capricious action and/or a violation of a procedural due process, as the decision appears to have been made before the required public hearing process was completed. See, e.g., *Veterans Park Neighborhood Association, Inc. v. City of Boise*, 175 Idaho 194, 564 P.3d 350 (2024).

The fact that the council produced the reasoned statement at the public hearing held subsequent to their approval of their mediation proposal assists and addresses one procedural requirement, but it does not cure the fundamental problem of the council preapproving a mediation proposal before a public hearing. The issue raised is whether the public hearing was meaningful or merely a formality after the council had already committed to approving the mediation agreement (new PUD Application). Idaho law requires that land use decisions be "founded upon sound reason and practical application of recognized principles of law", with proceedings evaluated as a whole in light of practical considerations, with "an emphasis on fundamental fairness and the essentials of reasoned decision-making". See, e.g., *Renaissance Project Dev. LLC v. Twin Falls Cnty.*, 173 Idaho 572, 545 P.3d 12 (2024) (citing I.C. § 67-6535). A court examining the instant procedure would examine whether the decision-making process reflects genuine consideration of public input and applicable standards, not whether the decision-maker simply went through the motions. While the city council produced a reasoned statement at the public hearing may satisfy the written statement requirement under Idaho Code 67-6535, it does not

necessarily validate a process where the council appears to have predetermined the outcome before the public hearing and any public comments.

As already stated, the critical question is whether the counsel's preapproval of the mediation proposal rendered the subsequent public hearing a mere formality which would constitute a violation of procedural due process. Given that the council had already approved the mediation proposal before the public hearing, the public's opportunity to be heard may not have been meaningful as the decision appears to have been made before the required public participation occurred. The reasoned statement produced at the hearing does not demonstrate that the council actually considered the public input but rather rubber stamped and ratified a predetermined agreement.

CONCLUSION

Based on the present record and applicable law and regulation standards, the council abused its discretion and acted arbitrarily and capriciously in approving the "new" application (based on a mediation agreement). In addition, the procedure utilized by the council violated procedural due process. Under Idaho law, the city council acting on a PUD application sits in a quasi-judicial capacity, and involvement in a prehearing mediation agreement approval creates a serious due process concern regarding impartiality and bias when that same council approves of the application after that same city council as a body has approved the mediation proposal upon which the new PUD Application is based.

The affected persons request that council reconsider its decision and approval of the PUD application based upon an inappropriate process and procedure being employed by the city council.

Dated: July 09, 2024

AFFECTED PERSONS

By _____

By _____

By _____

By _____

By _____

By S/Dave Rocknak
see email for consent
and confirmation

Outlook

Re: Reconsideration Documents

From Dave Rocknak <dgrocknak@gmail.com>
Date Thu 7/9/2026 1:17 PM
To Mack Smith <fishy1135@gmail.com>

I have read and agreed with the points of reconsideration for the Willows Place PUD. I am currently out of town and ask that this acknowledgment by email suffice for my signature. Thank you!
On Thu, Jul 9, 2026 at 1:08 PM Mack Smith <fishy1135@gmail.com> wrote:

> Dave,
>
> Attached are the reconsideration documents . Please review and return your approval of the documents and your consent to use your approval email as evidence of your approval and to use in lieu of your signature.
>
> Thank you.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused to be served a true copy of the foregoing REQUEST FOR RECONSIDERATION by the method indicated below, and addressed to each of the following:

Community Development Services
~~Idaho Falls City Clerk~~
308 Constitution Way
Idaho Falls, ID 83402

- ☐ U.S. Mail, Postage Prepaid
- ☑ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Facsimile
- ☐ iCourt

Dated: 07/09/2026

RECEIVED BY

BRIAN J. STEVENS

Mack and Teri Smith
1135 Bluebird Lane
Idaho Falls, Idaho 83405

Affected Contingent Neighbors

Before The City Council of
The City of Idaho Falls

In Re Application for Planned Unit Development for Willow Place Townhomes, By Mack and Teri Smith Movants.	**REQUEST FOR RECONSIDERATION**

Please accept this as our timely request for the City Council of Idaho Falls to reconsider and reverse its approval of the Willow Place Townhomes Planned Unit Development (PUD) pursuant to Idaho Code Section 67-6535(2)(b).

The following are points for Reconsideration:

1. Development is under 2 acres. If this PUD is approved, it will apparently be the only PUD approved by the City Council that is under 2 acres in its finished state. Should be noted again that the developer submitted Cleveland PUD as being approved; it was not (probably mistakenly thought that all applications were approved as this seems to have been past practice). Skyline Manor and Anderson Townhomes are PHASED projects which are allowed in the code. Both of these projects each relied on two PUD applications to complete their respective phases. Both shared amenities and roads across their applications that were referred to in discussions. When both projects are finished, you won't be able to tell that there were two separate applications; they will just be seamless neighborhoods over 2 acres.
2. The building of the development relies on the Church to allow the developers to modify their parking lot by closing the west entrance and putting in a hammerhead turnaround. Also, using their storm water drainage pond to drain the PUD. By the developer's own admission, they have "donated" thousands of dollars to the church which conveniently gets the cooperation of the Church, a tax deduction, and makes it so they can build the PUD.
3. The last public hearing was just a testimonial for the developer. We had two people obviously brought in by the developer to testify of his wonderful developments without any relation to laws or zoning code, with one saying he wanted to return to

Idaho Falls from Blackfoot, and these proposed townhouses would be great for him. One of the partners got up and gave an emotional plea that the development was his legacy as he purchased the land with the death benefit insurance money be got from the passing of his father and that he named the project and road after his daughters. The developer himself espoused his virtues, saying how they helped the Church without acknowledging the benefit they derived. In fact, he said they didn't rely on the Church when in fact without the parking lot modification and drainage pond they would not be able to build the PUD as currently platted. Some of this even after I read what the city said about keeping comments to related ordinances and codes.

4. The mediation didn't include a representative from the neighborhood; our elected official did not represent public comments with the possible exception of density, went from 14 units to 12. One point the people of the neighborhood brought up repeatedly was a fence along the canal; the city and developer response was they couldn't build a fence on the canal easement. Of course not, the developer would have to build it on their land, just like the one the school district built on the opposite side of the canal. The canal may have only two feet of water in it, but it has steep banks that are 10 or more feet above that water.
5. The developer refuses to build a privacy fence for those neighbors who want or need one as has been done with other PUD developments. Simply saying that most of the neighbors have fences and the one that doesn't, they might consider going in half with them.
6. The issue of affordable housing and the housing shortage was brought up, even though in the original city council meeting back in January we were told that was not an issue to talk about. But it is OK if the developer brings it up. Also, in the city's own statistics there are thousands of housing units over the number of households in the city. The city is actually reducing the opportunity for affordable housing with these PUDs because they require a HOA, which if you check on estimates for just the maintenance of the road and common areas would add at least $250 to $300 a month to the cost of these units.
7. The amenities associated with the PUD were repeatedly found by residents to be redundant and therefore do not provide a benefit. The developer refused to offer alternatives, and the city accepted the ones the developer gave so the project could be approved.
8. Several discrepancies between what was in the plat and what was described. Examples: setbacks on the plat appeared to still be 20 ft, but were described in writing as being 25 ft, but if that was the case the sidewalk was part of the setback, but no dimensions found for the sidewalk. The buffer between the Church parking lot and the PUD was listed as 8 ft (a variance from 10) on the plat but reduced to 5 ft in a description. The Plat sent out to neighbors and posted on the sign was rather illegible, in some cases a magnifying glass didn't help. Also, their site plan for the Church parking lot indicated it only had 48 parking spaces, but when counted there are 55 spaces. They claim to be increasing the spaces to 53 with the modification.

9. The mailed notices of the public hearing arrived on the Monday after the Thursday that the signs were set up on the property (with the sign being placed next to the Church property rather than in the middle of the PUD property as had been done previously and which people told us was not as prominent). Also, the time for written comments to be sent in was reduced to 4 days, 8 days before the hearing. In the past, written comments were due the Monday before the Thursday hearing.
10. Drainage was never really addressed, even though brought up several times. The site plan for the modifications to the Church parking lot shows the watershed for the Church's storm water pond to be the Church property and not the PUD. But it is clear that the PUD is using their pond and have an easement. Also, there has been no clarification on how runoff from the west side of the PUD will be handled since the townhouses are being built were the runoff historically pooled (the lot was the drainage pond for the church and the contiguous neighbors). Without drainage on the west side of the PUD water will stand over the utility easement, including the new fiber optic cable, and possibly cause flooding for the neighbors, particularly if berms are removed during construction.
11. At the city council meeting where the mediation agreement was announced, no public comment was allowed. However, people from the neighborhood said the city made it seem that the mediated PUD would have to go through the whole required hearing routine, neighbor meeting, P&Z hearing, and City Council. Apparently, that was not the case. So, many were surprised by the short time in which it came to the city council. This misunderstanding, plus the timing of the hearing, meant that few in the neighborhood showed up, rather than the 20 or 30 as in the past, there were only about 6.
12. At the hearing, the City Council treated approval as a forgone conclusion with the way the hearing was conducted. How does one go back on the approval of the PUD when the mediation describing the PUD is already approved and accepted where no public comment was allowed.
13. This hearing was the first time that modification to the Church parking lot was indicated, never was even mentioned in the past and received no real mention in this hearing other than being brushed aside, even though it was important so the PUD road would meet code.
14. The Conditional Use Permit (CUP) for the Church property was approved by the City Council on June 6, 1981, but could not be found. This was brought up by us during the hearing, but it was not even mentioned or considered by the Council or addressed by the developer or the Development Director. We don't know if the Church was following the CUP when they sold the land or if they will comply if the project is built and their parking lot is modified. Will they have to apply for a new one? The original Church was adamant about not ever selling the property
15. Loss of easement by adjacent property owners across the property upon which the said PUD will be built.

Based on the record given above and applicable law and regulation standards, the Council abused its discretion and acted arbitrary and capriciously in approving Bear Hunter

Holdings PUD Application. We request the Council reconsider its decision and deny the PUD Application as submitted.

DATED this 9th day of July 2026.

Print Name	Signature
Roy A Matthews	
Deborah J. Hundley	Deborah J. Hundley
Teri L. Smith	
Mack W. Smith	
Robert G. Thompson	
Dave Rocknak	s/ Dave Rocknak see email for consent and confirmation

Outlook

Re: Reconsideration Documents

From Dave Rocknak <dgrocknak@gmail.com>
Date Thu 7/9/2026 1:17 PM
To Mack Smith <fishy1135@gmail.com>

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- ☑ Hand Delivered
- ☐ Overnight Mail
- ☐ E-mail
- ☐ Facsimile
- ☐ iCourt

Dated: 07/09/2026

RECEIVED BY: BRIAN J. STEVENS

Request for Reconsideration of Willows Townhomes PUD
Mack + Teri Smith (Movants)

PLANNED UNIT DEVELOPMENT

PROPOSED RESIDENTIAL

A. BUILDING TYPE = SINGLE FAMILY ATTACHED (2 story with garage)
B. CONSTRUCTION TYPE = V-B, UNSPRINKLERED
C. UNIT SIZE = 1,519sf (637sf MAIN FLOOR + 637sf SECOND FLOOR + 245sf GARAGE)
D. BUILDINGS = 6
E. UNIT COUNT = 12 (3 BEDROOM UNITS)
F. TRASH: INDIVIDUAL 95 GAL. CONTAINERS

NOTE: ALL BUILDINGS ARE BELOW 21' TALL AT EAVE AND ARE TYPE V-B CONSTRUCTION. SEE ARCHITECTURAL PLANS FOR MORE INFORMATION.

LANDSCAPE NOTE

A. LANDSCAPE AREA PROVIDED = 42,700 SQ FT
B. LANDSCAPE AREA = 54% OF TOTAL LOT
H. LANDSCAPE BUFFERS = 10' wide with trees at 20' o.c.
I. INTERNAL LANDSCAPING: 1 TREE & 2 BUSHES/5000 SQ FT
J. IRRIGATION TO BE PROVIDED MY MUNICIPAL CULINARY SOURCE
- NOTE: THE PROPERTY WAS HISTORICALLY EXCLUDED FROM THE IRRIGATION DISTRICT AND A WILL NOT SERVE LETTER WAS PROVIDED.

SITE INFORMATION

A. ZONE = R1 SINGLE DWELLING RESIDENTIAL
B. LEGAL DESCRIPTION: LOTS 1-3, BLOCK 5, 47,242 SQ FT LOTS 4-6, BLOCK 5
C. COMBINED LOT SIZE = 1.815ac (79,075.223sf)
D. ALLOWED DENSITY = 6 du/ac (8 du/ac with PUD)
E. PUBLIC STREET SETBACK = 25ft
F. SIDE SETBACK = 6ft
G. REAR SETBACK = 25ft
H. ZOEY LANE IS A PRIVATE STREET TO BE MAINTAINED BY THE HOA

PARKING REQUIRMENTS

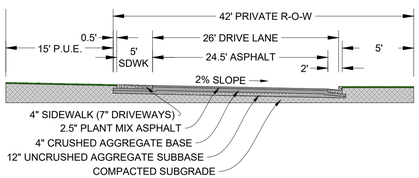
A. PARKING REQUIRED = 28 (2 stalls per dwelling)
B. PARKING PROVIDED = 42 (1 each garage + 2 per driveway + 6 guest stalls)
All stalls are 10' wide X 20' long

AMENITY INFORMATION

A. AMENITY OPEN SPACE REQUIRED = 19,769sf (25%)
B. AMENITY OPEN SPACE PROVIDED = 19,836sf (25.1%)
C. PROPOSED BASKETBALL COURT, PLAYGROUND AREA

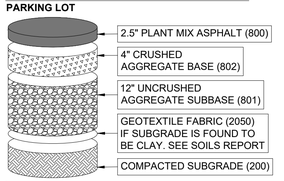
FIRE DEPT. NOTE:

A. This project will require fire lane signs and red painted curbing. Contact the Fire Prevention Division of the Idaho Falls Fire Department for a consultation on fire lane sign placement, painted curbing requirements and the emergency vehicle turn around area.



ROADWAY SECTION
PRIVATE RIGHT OF WAY

PAVEMENT BALLAST SECTION
PARKING LOT



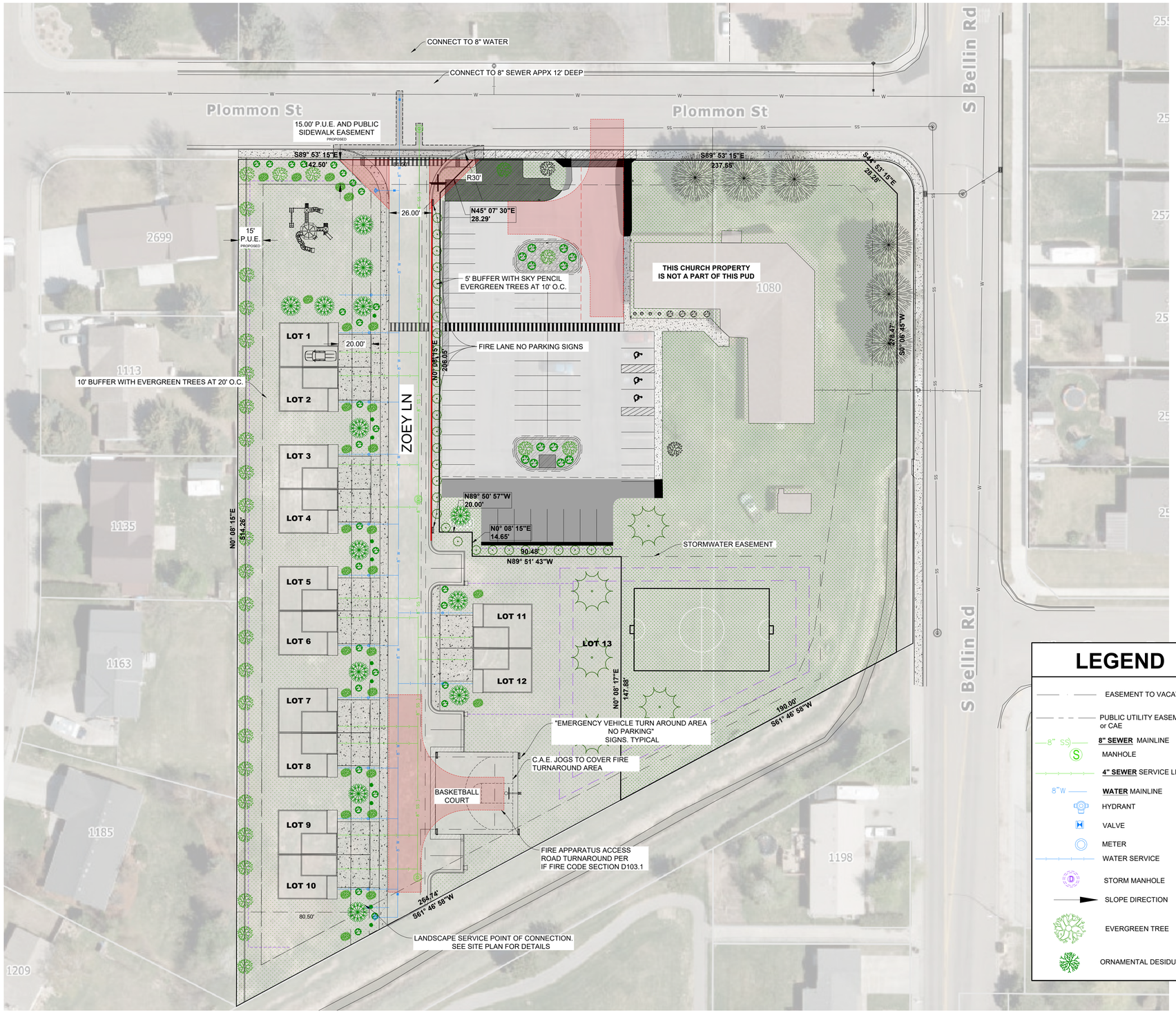
NOTE: BUILD, COMPACT AND TEST PER GEOTECHNICAL INVESTIGATION, IF ANY, AND SECTIONS FROM THE CITY AND ISPWC STANDARDS AND SPECIFICATIONS REFERENCED ABOVE

SURVEY NOTE

THIS SITE PLAN IS DESIGNED TO CONFORM WITH AN ACTUAL SURVEY THAT WAS PERFORMED ON THE GROUND BY A LAND SURVEYOR LICENSED BY THE SATE OF IDAHO. THE BOUNDARY LINES OF THE SURVEY ARE SHOWN HEREON WITH BEARINGS AND DISTANCES. IT IS THE OWNERS/DEVELOPERS RESPONSIBILITY TO CONSTRUCT ALL STRUCTURES SHOWN ON THIS SITE PLAN IN ACCORDANCE WITH SAID SURVEY.

BASIS OF BEARING

ALL MEASURED BEARING SHOWN HEREON RELATE DIRECTLY TO THE "CITY OF IDAHO FALLS COORDINATE SYSTEM OF 2004" WHICH IS DERIVED FROM THE IDAHO STATE PLANE COORDINATE SYSTEM (EAST ZONE 1101) US SURVEY FEET AND USING A COMBINED SCALE FACTOR OF 1.000277265 FOR A GRID TO GROUND CONVERSION, NAD_83 (2011), EPOCH 2010.0000. THE SYSTEM ORIENTATION IS BASED ON GRID NORTH ALONG THE EAST ZONE CENTRAL MERIDIAN. NO CONVERGENCE ANGLE HAS BEEN APPLIED.



LEGEND

- EASEMENT TO VACATE
- PUBLIC UTILITY EASEMENT or CAE
- 8" SS — **8" SEWER** MAINLINE
- MANHOLE
- **4" SEWER** SERVICE LINE
- 8"W — **WATER** MAINLINE
- HYDRANT
- VALVE
- METER
- WATER SERVICE
- STORM MANHOLE
- SLOPE DIRECTION
- EVERGREEN TREE
- ORNAMENTAL DESIDUOUS

PROFESSIONAL ENGINEER LICENSED Steven Heath 19205 19-Dec-25 STATE OF IDAHO STEVEN HEATH

MTN ENGINEERING WEST

PUD

WILLOWS PLACE TOWNHOMES

1" = 30' 0 30 60 24"X36" SHEET SIZE

12/19/2025

PAGE NO. 1 of 1

PUD

Caitlin Long

From: Dale Barrett <barrettdale@msn.com>
Sent: Wednesday, July 29, 2026 10:02 AM
To: Caitlin Long
Subject: Willow Place PUD

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As residents of the westside of Idaho Falls for almost 40 years, we wish to go on the record OPPOSING the Willow Place PUD. There is a large 70 unit development (Vallow at Bellin) still under construction only a block away from the proposed Willow Place site. With so many multi-unit residences being built in Idaho Falls we cannot see the need to squeeze another multi-unit project in such a small plot of land. It will contribute to added pressure on the infrastructure of the area as well as likely cause more overcrowding in the schools. Please consider the wishes of the residents and not the out of town developers. Please vote NO on the Willow Place PUD!

Dale Barrett
Catherine Barrett

Caitlin Long

From: Dani Lauricella <danilauri92@gmail.com>
Sent: Wednesday, July 29, 2026 2:14 PM
To: Caitlin Long
Subject: Dissent Regarding Willows Place Townhomes

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I am writing in regard to the Willows Place Townhomes that are planned for the Mill Run neighborhood. I have lived in the Mill Run neighborhood for 4 years now with my husband and two small children. We have another one on the way. We have enjoyed living here and hope to raise our family in the home that we own.

I understand that there are housing needs for young families, such as mine. However, there have been multiple townhome units that have been erected within a 3 mile radius of the proposed Willows Place townhomes. None of them are actually low-cost options for the demographic they are proposed for: young and growing families. They are luxury units that cost more than allow these young families that are the supposed target to save to purchase their own homes in the future. This seems contradictory to the council's reasoning.

Additionally, I have concerns regarding the impact on privacy for the homeowners in the neighborhood, as well as the school children at Westside Elementary as the townhomes will overlook the school play yard. I am concerned and uncomfortable with the possibility of my children having a lack of privacy when they attend school in the future.

I would like to remind the council that they were elected to represent the people, not property development companies. I know there are a large number of families in the Mill Run neighborhood that oppose these townhomes. I am one of those people. I only hope you will listen to the voices of the people you were elected to serve.

Sincerely,

Danielle Ketring

Sent from my iPhone

Caitlin Long

From: Daryl Jones <jonesd.dj97@gmail.com>
Sent: Wednesday, July 29, 2026 3:29 PM
To: Caitlin Long
Subject: Willows Place Townhomes Public Hearing

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Our names are Daryl and Kathy Jones. We have lived at 1550 Newman Dr. since 1996. We wish to express our opposition to the Willow Place Townhomes.
We do not understand how one council member can approve the project without a public hearing. We believe the council should listen to the people who have lived in this area for decades and do not want this development, whether it has 14,12, or 6 units. Does the city council even realize how many units of condos, apartments and townhomes they have approved in the last five years tor the following area;
Broadway as north boundary
Osgood Road (city limits) as the western boundary
West 17th S as the southern boundary and
Skyline Dr. as the eastern boundary?
A bunch!
We chose to live on the west side of town because of the slower pace and less congestion. We urge the city council to listen to the people who currently live here, not the developer, and not approve this development.

Sincerely,
Daryl and Kathy Jones

Caitlin Long

From: dorothy yelton <dorothysyelton@gmail.com>
Sent: Wednesday, July 29, 2026 3:16 PM
To: Caitlin Long
Subject: Willows Place Townhomes

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Burtenshaw and Idaho Falls City Council Members,

I am writing to request that you reverse the approval for building the Willows Place Townhomes complex behind the Iglesia Bautista El Calvario church on Bellin Road.

This lot is entirely too small for building more multi family homes; it is less than 2 acres required by City Code.

The lot adjoins a canal that many Westside residents walk alongside daily. The canal is a nesting place for ducks and occasional geese. This development would disrupt all of this.

The property is also directly behind the Westside School playground. It's always been a safe place for neighborhood children to play unsupervised during the summer. That will change with the addition of these townhomes, as parents will then likely deem it unsafe with the influx of people.

Parking on the street is already a problem for Westside residents and this would only compound the problem.

And finally, it will create more traffic congestion, which is currently a major issue for Westside residents.

We respectfully request that you rescind approval of this development.

Sincerely,
Dorothy Yelton and Jodie Yelton
2699 Newman Drive
Idaho Falls. 83402
208-521-2145

Sent from my iPhone

Caitlin Long

From: Jeff Syverson <dirtmodracer@hotmail.com>
Sent: Wednesday, July 29, 2026 8:00 PM
To: Caitlin Long
Subject: Willows Place Townhomes

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing concerning this development. I have attended a couple of the city council meetings regarding this matter.
I have heard again and again that Willows Place should be approved because we have already given variance to other PUDs. Still Willows place doesn't meet the requirements for a variance.
I have also heard that the council is concerned about property rights. What about the rights of the property owners that already own homes in this neighborhood? They should have a right to think that apartments won't be built in an area of single family homes.
I respectfully ask that you reconsider and deny the variance for Willows Place development.
Thank you,
Jeff Syverson

Get Outlook for Android

Caitlin Long

From: Kellie Bell <bell.kellie@gmail.com>
Sent: Tuesday, July 28, 2026 1:37 PM
To: Caitlin Long
Subject: Opposition to Willows Place Townhomes PUD (Aug 6 hearing)

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Burtenshaw and City Council members,

I am a resident of the neighborhood near the proposed Willows Place Townhomes, and I am writing to oppose the PUD and to support the Request for Reconsideration filed on July 9, ahead of the August 6 public hearing.

My main concern is density. This is a multi-unit townhome project being fit onto a very small parcel that sits inside an established R1 single-family neighborhood. A development this size in a space this tight changes the character of the area and puts real strain on streets that were not built to carry it. The site plan itself shows streetscapes that will be dominated by garages, driveways, and parked cars, which is a poor fit next to the homes already here.

Beyond compatibility, I am concerned about the practical impacts of adding this many units in one spot: traffic on our streets, water pressure, sewer capacity, and the canal. These are the everyday issues that affect the people who actually live here, and they deserve a real answer rather than being set aside as outside the zoning question.

Several specific points also give me pause:

- As I understand it, the parcel falls short of the two-acre minimum that City Code requires for a PUD.
- The proposed amenities add little that is not already available to the surrounding community.
- The plan appears to rely on adjacent church property, which is not part of the PUD, to make its layout and amenities work.

I would also ask the Council to consider how this project got back on the agenda. The public was not part of the mediation agreement that revived a proposal the Council had already denied twice. That leaves many of us feeling our input stopped mattering once the developer and the city met privately, which raises a fair due process concern.

I understand that housing and growth are genuine needs. But the right project has to fit the place it goes, and this one does not. The Council denied this PUD twice for sound reasons, and the revised version does not resolve them. I am asking you to grant the Request for Reconsideration and reverse the June 25 approval.

Thank you for your time and for representing the residents of Idaho Falls.

Sincerely,
Kellie Bell
1249 Caysie Lane
Idaho Falls, ID 83402

Caitlin Long

From: Lynda Edwards <potteryandfish@hotmail.com>
Sent: Friday, July 24, 2026 7:37 AM
To: Caitlin Long
Subject: Out of control building

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

For the city council,
You may not realize how much outrage there is from all these apartment buildings and town houses. We are told to conserve water, yet high density villages are springing up on every plot of ground that has more than an acre. Parking in some areas are causing congestion.
What happens when all the illegals are deported? People are not having as many children so there's a housing glut about to happen. When there's no more farmland where will food come from?
Please stop the insane growth of high density buildings.
Lynda A.W. Edwards
Idaho Falls

Caitlin Long

From: Robert Spence <robertspence67@gmail.com>
Sent: Saturday, July 18, 2026 11:32 AM
To: Caitlin Long
Cc: Ann Peterson
Subject: Public Comment for Reconsideration: File APP26-005 / PUD25-002 (Willow's Place Townhomes)

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Idaho Falls City Council and Planning Division,

Please accept these formal written comments regarding the upcoming August 6, 2026, Special Public Hearing for the reconsideration of the Planned Unit Development (PUD) application PUD25-002 / APP26-005 (Willow's Place Townhomes), proposed by applicants Mack and Teri Smith.

As a resident of the directly impacted neighborhood, I am writing to request that the City Council reverse its June 25, 2026, decision and deny the PUD overlay request for Lot 7 and a portion of Lots 4 and 6, Block 5, New Sweden Estates Division No. 3.

While the developer has reduced the overall unit count, the proposed high-density townhome configuration remains fundamentally incompatible with the City's Zoning Ordinance and the Comprehensive Plan for this specific parcel.

I ask the Council to evaluate the following technical deficiencies under the criteria for PUD and reconsideration review:

1. Direct Conflict with R1 Base Zone Intent
The subject parcel is situated entirely within an established Low-Density Residential (R1) zone. According to the Idaho Falls Zoning Ordinance, the explicit intent of the R1 zone is to establish and protect a low-density, detached single-family residential environment.
While a PUD overlay allows flexibility, it should not be utilized to inject a localized density spike that contradicts the plain-language objectives of the underlying R1 base zone. This layout undermines the predictability that zoning maps are intended to guarantee to existing homeowners.

2. Inadequate Transitional Setbacks and Buffering
The project site directly abuts standard single-family residential lots along Bluebird Lane and Plommon Street.

The introduction of attached multi-family structures immediately adjacent to detached single-family properties fails to provide an orderly transition in land-use intensity.

I request that the Planning Division rigorously audit the developer's site plan regarding peripheral setbacks. If the developer requires variances from standard R1 property-line setbacks to make these

townhomes viable, the PUD fails to protect the adjacent properties from severe visual and spatial encroachment.

3. Internal Layout and Parking Spillover Risks
I understand traffic concerns are addressed by the City Engineer but the physical configuration of multi-family townhomes inherently compresses vehicular traffic.

If the internal private drives, parking lot layouts, or designated guest parking spaces within the PUD are constrained, vehicle overflow will inevitably spill onto Plommon Street and Bluebird Lane.

This potential spillover directly impacts the safety and traffic flow of our established public neighborhood streets, presenting a layout conflict that cannot be mitigated simply by reducing the number of units.

4. Verification of Functional Common Open Space
To justify the density bonuses and structural flexibility granted by a PUD overlay, the developer must provide high-quality, functional common open space.

I urge the Council to verify that the proposed open space allocations are genuinely usable for recreation and community integration, rather than passive, unclaimable peripheral strips or storm-water retention basins masquerading as a public benefit.

Conclusion
A PUD should enhance a neighborhood through superior design, not serve as a loophole to bypass the clear intent of an R1 single-family zone.

Because the proposed townhomes fundamentally conflict with the surrounding spatial patterns, setbacks, and land-use goals of the New Sweden Estates area, I respectfully request that the City Council deny the application upon reconsideration.

Thank you for your time, your rigorous review of these files, and your service to the community of Idaho Falls.

Sincerely,
Robert Spence
997 Bluebird Ln. Idaho Falls, ID 83402
208-360-4293

Susan and Thomas Hipp
3014 Newman Drive
Idaho Falls, Idaho 83402
hipptm@gmail.com

July 28, 2026

Lisa Burtenshaw

Michelle Ziel-Dingman, Jim Francis, John Radfordd, Jim Freeman, Kirk Larsen, Brandon Lee
Members of Idaho Falls City Council

Dear Council,

We have been residents of Idaho Falls for over forty years. It has been a great place to live and work. However, over the past several years, the quality of life in Idaho Falls has declined. While the Green Belt and some commerce have been a benefit, the traffic and multi-unit developments are degrading that quality. The amount of traffic, long traffic light cycles, and aggressive driving on roads such as 17th and Sunnyside make travel extremely burdensome and even dangerous.

We are aware of the need (nationwide) for affordable housing. Some multi-units are necessary but shoehorning them into established neighborhoods while touting it as an achievement shows a disconnect with your responsibilities to the residents.

The proposed Willows Place PUD will certainly have a negative impact on the Mill Run neighborhood and especially to the homes just west of the development. We already have a terrible eye sore at the northwest corner of Bellin and Pancheri. Let’s not add another one.

Bear Hunter Holdings is motivated by money; you must be motivated by the overall quality of life for Idaho Falls residents. Stand up to Bear Hunter.

Previous travel commitments prevent us from attending the August 6th meeting. We did attend the May 21st meeting but left during the extended and painful debate over the meaning of “may”.

Your decisions will seriously impact our future voting on future council members.

Sincerely,

Susan and Tom Hipp

Your Name

WRITTEN DECISION REGARDING REQUESTS FOR RECONSIDERATION BY MACK AND TERI SMITH ET Al.

PLANNED UNIT DEVELOPMENT FOR WILLOWS PLACE TOWNHOMES, GENERALLY NORTH OF HIGHLAND CANAL, EAST OF BLUE BIRD LANE, SOUTH OF PLOMMON STREET, WEST OF SOUTH BELLIN ROAD.

WHEREAS, Bear Hunter Holdings, LLC, ("Applicant") filed a complete application for the PUD on August 25, 2025; and

WHEREAS, on June 25, 2026, the Idaho Falls City Council ("Council") approved a Reasoned Statement of Relevant Criteria and Standards granting a revised application for a PUD; and

WHEREAS, on July 9, 2026, two Requests for Reconsideration were filed by Mack Smith, Teri Smith, Roy Matthews, Debrah Hundley, Robert Thompson, and Dave Rocknak (the "Neighbors"); and

WHEREAS, having reviewed the Neighbors' Requests for Reconsideration, including all exhibits and evidence entered into the record, and having considered the issues presented:

I. FINDINGS OF FACT

The Council makes the following factual findings:

1. The property is approximately 1.815 acres located generally north of the Highland Canal, east of Blue Bird Lane, south of Plommon Street, west of S Bellin Road.
2. The property is vacant and considered infill.
3. On August 25, 2025, a neighborhood meeting took place as required by section 11-6-8 of the Zoning Ordinance.
4. On October 7, 2025, the Planning Commission recommended to The Mayor and City Council approval of the original PUD as presented by a vote of 5 to 1.
5. On January 3, 2026, notice was published in the Post Register regarding the public hearing on January 22, 2026, to consider the original PUD.
6. On January 22, 2026, Council unanimously denied the application for the original PUD for Willow Place Townhomes as presented.
7. On February 26, 2026, the Applicant requested reconsideration of the decision to deny the original PUD.
8. On March 14, 2026, notice was published in the Post Register regarding the public hearing on April 2, 2026, for the reconsideration request.
9. On April 2, 2026, Council held a public hearing to consider Applicant's Request for Reconsideration and took additional argument and evidence on the record from both Applicant and members of the public. Council denied the Applicant's Request for Reconsideration with a vote of 3-2 on the basis "that this is resolvable issue through mediation."

10. On April 23, 2026, Council approved the written decision reflecting Council's denial of the Applicant's Request for Reconsideration.
11. On April 30, 2026, the Applicant requested mediation pursuant to City Code 11-6-4(G)(1).
12. On May 7, 2026, Council approved the request for mediation.
13. On May 14, 20026, mediation was held and a Proposed Mediation Agreement was jointly proposed by the representatives for both the City and the Applicant.
14. On May 21, 2026, the Proposed Mediation Agreement was approved by Council. The Proposed Mediation Agreement specifically provided that Council and the Applicant "have reached a potential compromise, subject to the requirements of ordinance that the compromise be approved by the Idaho Falls City Council after public notice and public hearing."
15. The Applicant submitted a revised PUD on May 21, 2026, but this revised PUD was not presented to Council for its consideration during the meeting on May 21, 2026.
16. On June 6, 2026, notice was published in the Post Register regarding the public hearing on June 25, 2026, to consider the revised PUD.
17. On June 25, 2026, Council held a public hearing on the revised PUD, at which members of the public and the Applicant were permitted to present additional evidence and argument. After hearing the additional evidence and argument, Council deliberated on and approved the revised PUD by a vote of 4-0, with Councilmembers Jim Francis and Brandon Lee having recused themselves from deliberating after the hearing closed and from voting. Council also issued a second Reasoned Statement of Relevant Criteria and Standards.
18. The property is currently zoned R1 and will be developed under the PUD Standards as modified by this Reasoned Statement.
19. The revised PUD consists of 12 units that are intended to be platted on individual lots.
20. The revised PUD will be under unified control.
21. The revised PUD has approximately 6.61 units per acre.
22. The revised PUD indicates the buildings will have two stories with eaves below twenty-one feet high.
23. The arrangement of the townhomes will provide private space.
24. All non-hard surfaced areas are proposed to be covered by landscaping.
25. At least twenty-five percent of the revised PUD will be designated and maintained as common space for the recreational and/or common use of the occupants of the development. The revised PUD specifically states that the open space for the amenities is 25.1% of the total area.
26. This development will have two amenities, a playground area and basketball court. The playground area will be located next to Plommon Street and will be accessible to the public as a practical matter.

27. A private street will be used to access the units. Zoey Lane, a private street, will come from the public street, Plommon Street. Zoey Lane will have sidewalks constructed in front of the units, providing pedestrian access to Plommon Street.

28. Each unit has a garage for one vehicle and a parking pad for two vehicles.

29. Six guest parking spaces are also provided in three different areas along Zoey Lane, providing convenient access for guest vehicles.

30. More than half the total linear distance on both sides of Zoey Lane will be landscaping. Less than half of the total linear distance on both sides of Zoey Lane will be parking spaces and garages.

31. The Applicant has requested the front setback to be varied from 25 ft to 20 ft.

32. The revised PUD site is across a canal from Westside Elementary School (the "School"). However, between the School's property and the PUD site property is property for the canal that is not owned by the Applicant or the School. As such, the Applicant does not have control over the canal property.

33. On July 9, 2026, the Neighbors submitted two requests to reconsider the approval of the revised PUD.

34. On July 18, 2026, notice was published in the Post Register regarding the public hearing on August 6, 2026, for the Neighbors' reconsideration requests.

35. On August 6, 2026, Council held a meeting to consider the Neighbors' Requests for Reconsideration.

II. RELEVANT CRITERIA AND STANDARDS

Council will first address the process followed in this matter, followed by an analysis of whether Council should deny or, instead, uphold its prior approval of the revised PUD.

A. Process

1. The City Council considered the Neighbors' Requests for Reconsideration pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The notices referenced in Findings of Fact 5, 8, 16, and 34 that were published in the Post Register satisfied the notice requirements of Title 67, Chapter 65 of Idaho Code.

3. The process followed in the matter after mediation satisfied the requirements of due process. To satisfy the requirements of procedural due process, all parties must be "provided with notice and an opportunity to be heard." *Cowan v. Bd. of Comm'rs of Fremont Cnty.*, 143 Idaho 501, 512, 148 P.3d 1247, 1258 (2006) (quoting *Aberdeen-Springfield Canal Co. v. Peiper*, 133 Idaho 82, 91, 982 P.2d 917, 926 (1999)). Further, the "opportunity to be heard must occur at a meaningful time and in a meaningful manner in order to satisfy the due process requirement." *Id.* (quoting *Aberdeen-Springfield Canal Co.*, 133 Idaho at 91, 982 P.2d at 926). That said, "due process is not a concept to be applied rigidly in every matter." *City of Boise v. Indus. Comm'n*, 129 Idaho 906, 910, 935 P.2d 169, 173 (1997). Instead, due process "is a flexible concept calling for such procedural protections as are warranted by the particular situation."

Id. (quoting *Matter of Wilson*, 128 Idaho 161, 167, 911 P.2d 754, 760 (1996)). The Idaho Code provides that, when mediation is held for a land use decision, "any resolution of differences through mediation must be the subject of another public hearing before the decision-making body." Idaho Code § 67-6510(1). This statutorily required public hearing satisfies the requirements of due process, as it provides interested parties with notice and an opportunity to be heard in a meaningful manner.

4. Here, Council considered and approved the Proposed Mediation Agreement on May 21, 2026. Finding of Fact 14. To be clear, the approval of the Proposed Mediation Agreement did not bind Council to approve the revised PUD. The Proposed Mediation Agreement specifically included a provision that the Applicant and the City "have reached a potential compromise, subject to the requirements of ordinance that the compromise be approved by the Idaho Falls City Council *after public notice and public hearing*." Finding of Fact 14 (emphasis added). This meant that the compromise would not be effective and binding unless and until there was approval *after* a duly noticed public hearing. Additionally, the Proposed Mediation Agreement provided that it "shall not be construed as waiving any legal requirement pertaining to the new PUD." One of the legal requirements pertinent to this PUD was the requirement under Idaho Code § 67-6510(1) to hold a public hearing after mediation. Notably, nowhere in the Proposed Mediation Agreement does it state that Council was bound to approve a revised PUD. Instead, the City agreed—via the Proposed Mediation Agreement—to agree to reduce the requirements for common space and parking spaces "only as necessary" to allow the Applicant to revise the PUD in accordance with how the Applicant agreed to revise the PUD, which revised PUD would need to be submitted to Council for approval. In short, the Proposed Mediation Agreement agreed to certain conditions that would allow the Applicant to revise the PUD in certain ways but did not give approval for any specific revised PUD at that time. At the time of the Proposed Mediation Agreement, the revised PUD was not presented to Council for consideration. *See* Finding of Fact 15. As such, Council did not—and could not—have approved the revised PUD at the meeting on May 21, 2026.

5. Council held a public hearing on June 25, 2026, to consider the revised PUD. Finding of Fact 17. This public hearing had been duly noticed in the Post Register on June 6, 2026. Finding of Fact 16. At the public hearing, members of the public—including some of the Neighbors who submitted the Requests for Reconsideration—presented additional argument and evidence. It was not until after the Neighbors had an opportunity to speak that Council deliberated on and voted to approve the revised PUD. Finding of Fact 17. This public hearing provided the members of the public—including the Neighbors—with an opportunity to be heard in a meaningful manner at a meaningful time. If members of the public had identified a legal issue that warranted denial of the revised PUD, then Council would have been bound by law to deny the revised PUD—as explained above, Council was not bound by the Proposed Mediation Agreement to approve the revised PUD. Consequently, the process followed by Council accorded with the requirements of due process.

6. In addition, the Neighbors were afforded a second opportunity to address the revised PUD via their requests for reconsideration. Findings of Fact 33, 35. By law, Council has authority to reverse its prior decision and deny the revised PUD. *See* Idaho Code § 67-6535(2)(b). The requirements of due process have been more than satisfied. And this was not the only process provided—there were two prior public hearings of Council to consider the original PUD

application and the Applicant's Request for Reconsideration. Throughout this entire process, the members of the public have had more than adequate opportunity to present their views.

B. Merits

7. Turning to the merits of the revised PUD, the Council notes that a PUD is a conditional use allowed within the R1 Zones and all regulations and uses shall be the same as the underlying zoning district unless modified as part of the PUD. *See* City Code 11-2-6(W)(1), (2)(a).

8. Pursuant to City Code 11-2-6(W)(4)(a), "the minimum site size for a PUD shall be two (2) acres. Smaller acreage may be considered for a PUD on land that the Council finds it redeveloping, or provides a public benefit or amenity." As found in Finding of Fact 1, the area for the revised PUD site is under two acres. Given its location, the proposed playground area amenity for this PUD will be accessible to the public as a practical matter. Finding of Fact 26. As a condition for this PUD, and pursuant to the terms of the Proposed Mediation Agreement to which the Applicant agreed, the Applicant will make the playground area[1] open to the public, place at least one sign next to the playground area indicating the playground area is open to the public, and construct the playground area to City standards in effect at the time the Proposed Mediation Agreement was approved. Based on these facts and agreed-upon conditions, Council finds that the revised PUD provides a public amenity. In an exercise of Council's discretion under City Code 11-2-6(W)(4)(a), Council grants the exception to the two-acre minimum rule.

9. The Neighbors asserts that this revised PUD is "apparently . . . the only PUD approved by the City Council that is under 2 acres in its finished state." (Request Recons. by Mack and Teri Smith ["1st Request Recons."] 1.) According to the Neighbors, all other approved PUDs that were under two acres were just phases in a larger development plan. (*Id.*) Although prior decisions regarding PUDs are relevant to Council's decision, they are not binding. *See Workman Fam. P'ship v. City of Twin Falls*, 104 Idaho 32, 36, 655 P.2d 926, 930 (1982) (holding that, "[a]lthough it may be true that the prior approval of other applications for rezoning does not establish a binding precedent, it does not follow that evidence of this nature is not relevant"). In any event, the approval of the prior PUDs under two acres does not mandate denial of the revised PUD. Nothing in City Code 11-2-6(W)(4)(a) conditions the exception to the two-acre requirement on the PUD site being part of a larger development. As such, the noted difference between the prior PUDs and the revised PUD is not a meaningful distinction.

10. Coming from a different angle, the Neighbors also argue that the public amenities offered by the revised PUD "were repeatedly found by residents to be redundant and therefore do not provide a benefit." (1st Request Recons. 2.) This is incorrect. An amenity does not lose all benefit simply because there are other similar amenities around—if this were true, then the reverse could be asserted, that the other amenities near this PUD site will lose all benefit once this PUD's amenities are constructed, which is clearly not the case. In addition, members of the public may decide to use the amenities at the revised PUD simply because they are closer

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[1] The Proposed Mediation Agreement refers to the playground as a "park," while the revised PUD refers to it as a "playground area." This Reasoned Statement uses "playground area" to be consistent with the revised PUD.

to their residence, providing a benefit to those individuals despite any redundancy. Council continues to find that the revised PUD's amenities will provide a benefit to the public.

11. Pursuant to City Code 11-2-6(W)(3)(a), the development site of a PUD is required to be under unified ownership or control and shall be planned as a whole. This requirement is satisfied by the revised PUD being under unified control. Finding of Fact 20.

12. Pursuant to City Code 11-2-6(W)(4), the revised PUD must meet the required parking standards unless modified. According to Table 11-4-2 of the City Code, the revised PUD must have two off-street parking spaces per unit. Here, each unit has one parking space in a garage and two parking spaces on the parking pad in front of the unit. Finding of Fact 28. The parking space requirement has been satisfied.[2]

13. Pursuant to City Code 11-2-6(W)(4)(c)(i), "the maximum density allowed in residential zones is set forth in Table 11-2-4 Maximum Residential Density," which is shown below:

Table 11-2-4: Maximum Residential Density

Base Residential Zone	Dwelling units/gross acres
RE	2
RP	5
RMH	35
R1	8
R2	17
TN	17
R3	35
R3A	35

(Ord. 3452, 3-31-22)

The property for the revised PUD is zoned R1. Finding of Fact 18. Pursuant to Table 11-2-4, this means the maximum density is 8 units per acre. For this PUD, there will be approximately 6.61 units per acre, Finding of Fact 21, which is under the maximum density of 8 units per acre. This density requirement is satisfied

14. Pursuant to City Code 11-2-6(W)(4)(e), "[t]he maximum structure height for a residential PUD shall be determined by the underlying base zone, except where a structure is set back from required setback lines by at least two foot (2') for each additional one foot (1') of building height." The base zone R1 allows for a maximum building height of 24 feet. According to Finding of Fact 22, the buildings are shown as two stories with the eaves below twenty-one feet high. Consequently, this requirement has been satisfied.

15. Pursuant to City Code 11-2-6(W)(5)(d), "[s]tructures should be oriented towards common areas. Residential uses should be separated and arranged to provide for private space, in

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[2] Pursuant to the Proposed Mediation Agreement, Council had agreed to modify the parking space requirement "only as necessary due to the reconfiguration of the park and twinhome lot." Because the revised PUD satisfies the parking requirement, Council is not modifying the parking space requirement.

addition to providing for common areas." The townhomes in this revised PUD will provide private space for each unit as well as incorporate the common areas into the overall development layout as required by Section 11-2-6(W)(5)(d). Findings of Fact 23 and 25–26.

16. Pursuant to City Code 11-2-6(W)(6)(a), "[a]ll areas within the PUD not covered by buildings, parking spaces, sidewalks or driveways shall be landscaped and maintained." Here, all non-hard surfaced areas are proposed to be covered by landscaping. Finding of Fact 24. As such, this requirement has been satisfied.

17. Pursuant to City Code 11-2-6(W)(9)(a), "[n]ot less than twenty-five percent (25%) of the gross area of a PUD shall be designated and maintained as common space for the recreational and/or common use of the occupants of the development." According to Finding of Fact 25, at least twenty-five percent of the revised PUD will be designated and maintained as common space for the recreational and/or common use of the occupants of the development. As such, the revised PUD meets the twenty-five percent requirement.[3]

18. Pursuant to City Code 11-2-6(W)(10), "[a]ll PUDs shall provide amenities in addition to the common space required by this Section." The revised PUD consists of 12 units. Finding of Fact 19. As such, at least one amenity is required under City Code 11-2-6(W)(10)—one for the first 50 units. Because the revised PUD includes the two amenities listed in Finding of Fact 26, the requirement for one amenity has been satisfied.

19. Pursuant to City Code 11-2-6(W)(8)(a), "[a]ll PUDs shall have frontage on a public or an approved private street." The revised PUD will have a private internal street, providing the required frontage. Findings of Fact 27.

20. Pursuant to City Code 11-2-6(W)(1)(a), another purpose of the PUD regulations is to "[a]llow for flexibility from traditional zoning standards that results in development providing an improved living environment, including usable common space, amenities or services, increased landscaping, additional architectural features or standards, and compatibility with the contiguous neighborhood." The developer has requested a varied front setback from 25ft to 20ft. Finding of Fact 31. The Council approves of this varied development standard for this revised PUD.

21. Pursuant to City Code 11-2-6(W)(1)(k), another purpose of the PUD regulations is to "[p]rovide for attractive streetscapes that are not dominated by parked vehicles or garage entrances." Here, less than half of the total linear distance on both sides of Zoey Lane would be parking spaces or garages, with more than half of it landscaped. Finding of Fact 30. As such, the streetscape for the revised PUD will not be dominated by parked vehicles or garage entrances.

22. Pursuant to City Code 11-2-6(W)(7)(c), "[i]nterior parking lot landscaping shall be designed to incorporate pedestrian ways through the parking area and to break large parking areas into

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[3] Council notes that, according to the Proposed Mediation Agreement, the City agreed to reduce "the common space requirement in City Code 11-2-6(W) below 25% only as necessary to accommodate the change in location of the park site and the one twinhome site." Because the Applicant was able to make the changes but still keep more than twenty-five percent (25%) for common use for the amenities, Council is not varying this common space requirement.

smaller bays." Based on Finding of Fact 29, guest parking is also provided throughout the development.

23. City Code 11-2-6(W)(11) requires that "PUDs shall provide pedestrian connections to existing or proposed schools, parks, public lands or pathways on adjacent properties" and that such "connections shall form a logical, safe, and convenient system for pedestrian access to all structures, project facilities and amenities, and principal off-site pedestrian destinations." Here, the revised PUD site is near the School property, but neither the Applicant nor the School control the intervening property associated with the canal. Finding of Fact 32. As such, the revised PUD cannot provide direct a direct pedestrian connection to the School. Council holds that this requirement will be satisfied by the construction of Zoey Lane and the associated sidewalks on Zoey Lane, Finding of Fact 27, which will permit pedestrian access to Plommon Street and from thence to the School.

24. The Neighbors assert a litany of arguments, some of which have been addressed above, but the remaining arguments are not relevant to whether or not the revised PUD meets the criteria of City Code 11-2-6(W). The more salient of these arguments will be addressed briefly.

25. First, the Neighbors raise multiple issues concerning a property owned by a church to the east of the PUD site, such as drainage onto the church property, the number of parking stalls at the church property, and whether the church complied with a conditional use permit for its own property. (1st Request Recons. 1–3.) Council's task, in considering the revised PUD, is to determine whether the Applicant has satisfied the criteria outlined in City Code 11-2-6(W) for the PUD's site, making the issue of whether the church property is in compliance wholly irrelevant.

26. Second, the Neighbors take issue with testimony presented in the Applicant's favor at the public hearing on June 25, 2026. Specifically, the Neighbors note testimony by members of the public regarding other developments by the Applicant and testimony regarding affordable housing. (1st Request Recons. 1–2.) The Neighbors are correct to the extent they assert that this testimony was not relevant to Council's decision, but the testimony was not a factor in Council's second Reasoned Statement of Relevant Criteria and Standards, which outlined the legal basis for Council's approval of the revised PUD. As such, the Neighbors have failed to show error on this score.

27. Third, the Neighbors argue that a fence should be placed both along the canal bordering the revised PUD site and also on the west portion of the revised PUD site bordering the residential properties. (1st Request Recons. 2.) The Neighbors, however, fail to cite to any legal authority requiring these fences. Although City Code 11-2-6(W)(6)(e)(ii) requires a fence when a PUD site borders a property with a commercial use, that condition is not present here, so no fence is required by this particular section of City Code. To the extent that Council has discretion to require a fence, Council declines to require fencing for the revised PUD. Any neighboring properties, including the owners of the residences to the west of the PUD site and the owner of the canal, are free to place fencing on their respective properties or seek to negotiate a cost-sharing arrangement with the Applicant.

28. Fourth, the Neighbors appear to claim that the residential properties bordering the revised PUD site have easements over the revised PUD site, as they claim a "[l]oss of easement by adjacent property owners." (1st Request Recons. 3.) Council, as a land use authority, "lacks jurisdiction to determine [an] easement's nature and scope, as questions of property ownership must be

resolved by a district court." *Jasso v. Camas Cnty.*, 151 Idaho 790, 797, 264 P.3d 897, 904 (2011) (citing *Rural Kootenai Org., Inc. v. Bd. of Comm'rs*, 133 Idaho 833, 842, 993 P.2d 596, 605 (1999)). Whether neighboring properties have an easement or not over the revised PUD site is a matter for a district court, not for Council.

29. Based on the foregoing, the revised PUD is consistent with requirements of the Zoning Ordinance as well as the principles and policies of the Comprehensive Plan.

III. DECISION

For the above reasons, the City Council of the City of Idaho Falls adheres to its prior decision to approve the revised PUD as presented.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2026

CITY OF IDAHO FALLS, IDAHO

_____

LISA M. BURTENSHAW, MAYOR

_____	_____
JIM FRANCIS	MICHELLE ZIEL-DINGMAN
COUNCIL PRESIDENT	COUNCIL MEMBER
_____	_____
JIM FREEMAN	JOHN RADFORD
COUNCIL MEMBER	COUNCIL MEMBER
_____	_____
KIRK LARSEN	BRANDON LEE
COUNCIL MEMBER	COUNCIL MEMBER

ATTEST:

_____

LINDA LUNDQUIST, CITY CLERK

NOTICE

This Written Decision is a final decision pursuant to Idaho Code § 67-6535. The Applicant or any other person aggrieved by this final decision may file a petition for judicial review within twenty-eight (28) days of the date of this Written Decision.

In addition, the above Applicant has the right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003.