

**City of Heyburn**  
**Planning & Zoning Commission**  
**Meeting & Public Hearing**  
**August 30, 2018**  
**4:00 P.M.**

**Call Meeting to Order:**

Planning & Zoning Chairperson Maureen Newton called the meeting to order at 4:00 p.m.

**Declaration of a Quorum:**

A declaration of a quorum present was confirmed by Chairperson Maureen Newton. Those present were Amy Despain, Glen Loveland and Heather Petersen.

**Discuss / Consider Approval of the Minutes of the July 12, 2018 Planning & Zoning Special Meeting & Public Hearing:**

Motion by Glen Loveland to approve the minutes of the July 12, 2018 Planning & Zoning Special Meeting & Public Hearing as presented. Second by Amy Despain. Vote: Amy Despain – Aye; Glen Loveland – Aye; Heather Petersen – Aye.

**Public Hearing – Annexation and Recommendation for Zoning Designation for the Foxboro properties:**

Chairperson Maureen Newton turned the time over to Tony Morley, Planning & Zoning Administrator, to present the Annexation and Zoning Recommendation for the Foxboro properties. These properties are currently zoned by Minidoka County as Agricultural Medium.

Mr. Morley gave a brief description of where the Foxboro property is located at and the City wished to annex its property. Mr. Morley stated that when the city was looking into & researching this property they discovered the other Foxboro property known as Foxboro Subdivision Recreational Park, LLC located right next to it is not annexed and should be at the same time. This property is an appendage to the Foxboro Subdivision and is used for parking RV's & storage for the residents. Mr. Morley said they got in touch with Karman Klassy, who is the designated Homeowner's Association President and Registered Agent with the State and he came and signed the Consent to Annexation after review with members of the subdivision. Mr. Morley said the use of this property and the way the subdivision uses it will not change, the only

thing that will change is that it will now be part of the city corporate boundaries instead of being in the county, zoning designation will change a little bit, but the use of the land will not change with that zoning designation.

Those speaking against annexation and zoning of the Foxboro properties:

Mr. Eugene Durrell Moon introduced himself, he said that he built the subdivision, and they reserved extra lot for the people in the subdivision to park their RV's. He expressed concerns regarding taxes for which Mr. Morley indicated he did not know the potential tax increase. He did indicate that if the plat were redone, it could be exempt from tax but that is an issue to resolve with the County Tax Assessor. Ownership of the proposed annexed lot was divided among owners in the Foxboro subdivision. Mr. Moon also raised concerns about the city not maintaining the Tree Farm property and asked that they do so and potentially selling back to the subdivision. Mr. Moon did not want to be taxed for the use of this lot.

Those speaking for annexation and zoning of the Foxboro properties: None

Those speaking neither for nor against annexation and zoning of the Foxboro properties:

Dan Davidson manager for MID, said he is here to speak on behalf of MID and is also a resident of Foxboro Subdivision. He said there is water on the property and if annexed the city should do something with the water, it's just sitting there unused, not good use for resource. He also asked if one of the owners wants to build a shed, are they now going to have to go through layers for permits.

During the hearing Maureen Newton indicated she would like some questions answered and there was need to do more research.

Glen Loveland asked about the process for exempt status with the assessor to which Mr. Morley responded.

Mr. Morley responded regarding permitting that the system hasn't really changed, there is not an additional layer, just a change of who. Rather than the County it would be the City.

Amy Despain stated the consent was signed by Karman Klassy, the spokesperson, Mr. Moon said he is not formally representing the subdivision owners.

Mr. Ross responded to Mr. Moon's question about who would be in charge of the property if annexed that annexation does not change ownership or the use of the property, just moves it from County to City. The rest of Foxboro is already in the City.

Chairperson Maureen Newton closed the public hearing.

Mr. Ross explained the parameters for an annexation, and reviewed the 3 categories of annexation under Idaho Code. Both these parcels fall within Category A. The Mayor has signed a Consent

to Annexation indicating the willingness to have that property come within city limits. He said that the Foxboro Subdivision Recreational Park, LLC registered agent is Karman Klassy and he signed a Consent to Annexation. Under Category A the City does need not to do anything else before annexing these properties.

Once annexation is approved, then the question is what designation for zoning. Both are currently zoned Agricultural Medium, and the recommendation for zoning in the city is Residential Low, same as the subdivision.

Water rights flow with the land, annexation doesn't change that. Mr. Ross provided the registry from the Idaho Secretary of State and Karman Klassy is the registered agent for the LLC and by signing has apparent authority.

Mr. Ross said that when the Foxboro Subdivision was annexed into the city, somehow this property was excluded, it was supposed to be annexed and wasn't. Mr. Morley said the city talked about only annexing the City property, but then that would make this property an enclave, which means it's surrounded by city corporate boundaries, enclaves become problematic.

Mr. Ross explained to the committee, if they wish they could just annex the city property today and leave the other property for later, but then he said that property becomes an enclave and a category a and the city could annex it later as an enclave.

**Discuss / Consider Annexation and Recommendation for Zoning Designation for the Foxboro properties – ACTION ITEM**

Motion by Amy Despain to approve the Annexation and Recommendation for Residential Low Zoning Designation for the Foxboro Recreational Park, LLC & the Foxboro Tree Farm presented by Tony Morley. Second by Heather Petersen. Vote: Amy Despain – Aye; Glen Loveland – Aye; Heather Petersen – Aye.

**Public Hearing – Annexation and Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street:**

Chairperson Maureen Newton asked if there was anyone here to present for Right-of-Way for 21<sup>st</sup> Street. Mr. Morley said he would present it. He said they are wanting to zone this little strip of ground owned by the city on 21<sup>st</sup> Street. It is currently zoned Agricultural Low with Minidoka County.

Dan Davidson, manager at MID said he doesn't believe they received a notice for it and it crosses right over their lower B canal. He said he is not opposed to it, no argument. Amy Despain asked if they were supposed to get notice, Mr. Morley said they are supposed to and Mr. Ross said yes.

Those speaking in favor of the Annexation and Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street were: None

Those speaking against the Annexation and Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street were: None

Those speaking who are neutral for the Annexation and Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street were: Dan Davidson

Hearing no further comments, Chairperson Maureen Newton closed the public hearing.

Mr. Ross explained that this was similar to the last one, there are three types of annexations. Category A, which is by consent. This annexation has actually already occurred, we are just asking for the P & Z Committee to approve it and zone it. Mr. Ross said under Category A, we can annex without notice to anyone because it is by consent, somebody is agreeing to come within the city. But when it comes to the zoning portion of it, we do have to give notice, he understood notice was given. If notice wasn't given, there was an impediment for zoning.

Mr. Morley said MID has written a letter to the City of Heyburn requesting notices on all zoning matters and if notice wasn't given it was something that fell through the cracks. Mr. Ross asked if there was proof of notice and Mr. Morley wasn't sure. Mr. Morley said they could pull back and verify. Mr. Davidson said it is possible that the notice on the annexation of this was emailed to his secretary and never made it to his desk, he doesn't want to hold anything up. Mr. Morley said that if Mr. Davidson who is the manager for MID would agree to go forward then he would say that is sufficient. Mr. Ross said they will check into this and make sure they don't miss anything like this again.

Maureen Newton asked who waters this property, Mr. Morley said the city waters it and Moyle's takes care of it. Maureen Newton asked if Moyle's had to be sent a notice and Mr. Morley said yes.

Amy Despain said this property is currently zoned Agricultural Low by Minidoka County, Mr. Morley said they are wanting to zone it Commercial General with the city.

**Discuss / Consider Annexation and Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street – ACTION ITEM**

Motion by Heather Petersen to propose a Recommendation for Zoning Designation for Right-of-Way for 21<sup>st</sup> Street as a Commercial General Zoning. Second by Amy Despain. Vote: Amy Despain – Aye; Glen Loveland – Aye; Heather Petersen – Aye.

**Review / Discuss Covenants, Conditions and Restrictions (CC&R's) for Q & K Properties:**

Mr. Morley said the CC&R's for subdivisions is something required by the city but since it is civil not enforced by the City. This is something for the P & Z Committee to review and make recommendations to the subdivision developers and they could consider that and make changes. Mr. Ross said they can't really block them, could only make recommendations. Mr. Morley said they included them so the Committee could see how the subdivision is supposed to look like. Discussion of CC&R's took place.

**Review / Discuss Covenants, Conditions and Restrictions (CC&R's) for Biscotti Estates:**

Mr. Morley said they have about 17 to 18 pages they covered most everything in there. Mr. Ross said they have quite a few restrictions and they will also be applied to future phases of Biscotti. Discussion of CC&R's took place.

**Discuss / Consider vote for new Planning and Zoning Committee Chairperson – ACTION**

Motion by Amy Despain to have Maureen Newton become the new Chairperson for the Planning & Zoning Committee. Second by Glen Loveland. Vote: Amy Despain – Aye; Glen Loveland – Aye; Heather Petersen – Aye.

**Training on process of Planning & Zoning meeting procedure:**

Mr. Ross said we are over our 1 hour for the meeting – training in place for next time.

**Adjournment:**

Motion to adjourn by Glen Loveland. Second by Heather Petersen. Vote: Amy Despain – Aye; Glen Loveland – Aye; Heather Petersen – Aye.

The meeting adjourned at 5:03 P.M.

---

Maureen Newton, Chairperson

---

Debra L. Encinas, Planning & Zoning  
Secretary