

# Planning & Zoning Minutes

January 15, 2009

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CITY OF  
**REXBURG**  
America's Family Community

## Commissioners Attending:

Winston Dyer – Chairman  
Thaine Robinson      Ted Hill  
Josh Garner            Mary Ann Mounts  
Dan Hanna             Randall Porter

## City Staff and Others:

Gary Leikness – P & Z Administrator  
Stephen Zollinger – City Attorney  
Natalie Powell – Compliance Officer  
Elaine McFerrin - Secretary

**Chairman Dyer** opened the meeting at 7:03 pm.

## **Roll Call of Planning and Zoning Commissioners:**

Josh Garner, Mary Ann Mounts, Randall Porter, Winston Dyer, Thaine Robinson, Ted Hill, Dan Hanna

**Richie Webb** and **Charles Andersen** were excused.

## Minutes:

1. Planning and Zoning meeting – November 20, 2008

**Randall Porter** motioned to approve the Planning & Zoning minutes of November 20, 2008.  
**Thaine Robinson** seconded the motion.

**Winston Dyer, Dan Hanna, and Mary Ann Mounts** abstained for not having been present.  
None opposed. **Motion carried.**

Public Hearings: None

Unfinished/Old Business: None

## New Business:

1. Final Plat – Trehusen Subdivision - 4<sup>th</sup> West and 2<sup>nd</sup> South

The applicant was unable to attend the meeting tonight.

**Chairman Dyer** stated the property ambiguities concerning this plat need to be addressed.

**Dan Hanna** motioned to table the final plat for Trehusen Subdivision until evidence is submitted to the City clarifying any problems with property ownership. **Randall Porter** seconded the motion. None opposed. **Motion carried.**

The applicant will be notified by staff.

**Compliance:** None

**Non controversial Items Added to the Agenda:**

The items were taken in the order of concern from those in the audience for this meeting.

1. American Self Storage – Fencing

Gary Leikness introduced the issue of the fencing to the Commission. American Self Storage is open for business, but one issue remains in order for them to get their Certificate of Occupancy- that is the fencing issue. The ordinance states that when a commercial property abuts a residential zone property, there is supposed to be a decorative concrete masonry block wall unless the adjoining property owners agree to another kind of fencing and the P&Z Commission approves it.

Dan Miller, 270 American St., of American Self Storage. They approached the 4 adjoining property owners about a different type of fence rather than concrete masonry block, providing them with a sketch of the fencing that they wanted to use.. The fence has been built and is a six foot chain link fence with privacy slats, with two strands of barbed wire running along the top. Mr. Miller said the property is surrounded by fields. Each surrounding property owner has given written agreement for this type of fence to be used – copies of their agreements have been provided for the Commissioners.

**Chairman Dyer** said privacy slats were not mentioned in the material that was submitted

Mr. Miller said they built the fence last fall and just put in the privacy slats. They have had the agreements signed since that time but did not get the issue before zoning until now. This area is the only one that abuts residential. The rest of the neighboring properties are Community Business Center (CBC).

The barbed wire at the top of the fence is for security. They matched it to the type of fence that is used near the City’s water storage. The subject property on American Street was shown on the overhead screen, along with the abutting properties. The fencing is not visible from the highway.

**Chairman Dyer** said he feels the privacy slats are an improvement – it gives more separation. He asked the Commission if they thought it was an appropriate buffer between commercial and residential.

The Commissioners discussed the issue.

**Mary Ann Mounts** thought that barbed wire was not appropriate in residential zones. She thinks, however, that this situation matches what the city already has in the area and meets the requirements

in the City's ordinance. There would be an issue if the area were to become residential. She would not want barbed wire in residential.

**Thaine Robinson** thought that if there were 50 rather than a few neighboring property owners the buffering appropriateness discussion might be entirely different.

**Randall Porter** wondered at the fact that the fence was built before this agreement was presented. Gary Leikness said that this developer has been working through the process with City staff.

**Chairman Dyer** said the issue before the Commission is as follows: the Development Code 926 says where a fence abuts between commercial and residential, the fence should be a block wall unless neighbors agree to some other type of proposed fencing; the neighbors have agreed to another type of fence, as stated in documents submitted by the applicant that the Commissioners have before them. The Commissioners now need to make a decision on whether they will approve this agreement. The Commission has brought up some additional concerns about future occurrences or changes.

Stephen Zollinger stated the Commission can either approve or disapprove this fence, and then they would be done and would not revisit the issue again. On the issue of the barbed wire, it was used for containment or exclusion, but he is not aware that barbed wire is specifically addressed in Development Code 926.

Discussion continued.

**Chairman Dyer** stated the record should show that privacy slats are present on the fencing that has been built on this property.

**Dan Hanna** motioned to approve the agreement made between American Self Storage (Highway 101 Investments) and its adjacent property owners, for a six foot high chain link fence with two strands of barbed wire running along the top, and noting that privacy slats have been installed and are part of this agreement, and that this fence agreement that includes privacy slats, shall be recorded with Madison County. **Ted Hill** seconded the motion.

**Those in Favor:**

Winston Dyer  
Dan Hanna  
Ted Hill  
Josh Garner  
Randall Porter

**Those Opposed:**

Mary Ann Mounts

**Motion carried.**

2. Day Care not permitted in downtown zone – Hans Wentzel

Gary Leikness introduced the issue. In Development Code 926, the Downtown Zone does not allow daycare use. The potential business owner is here tonight to ask the Commission to consider including daycares in a downtown zone in their revisions of Development Code 926.

**Chairman Dyer** said he sees 2 options – a possible rezone of the property or a change in the Development Code 926. He clarified that the issue before the Commission tonight is a “what if” discussion rather than an application. Gary Leikness said that was correct.

Hans Wentzel, 111 West 7<sup>th</sup> South - He wants to start a business, “Time Away for Parents” – it would be drop-in, noncontract caring for children. There would be some traditional (contractual) daycare but the majority of their services would be drop-in, which makes the business different, a drop-off babysitter in a commercial location. An example of such a drop-in service is in California, called Kids Park, which is located in a commercial zone. It helps to promote other businesses, as would his business. It would benefit citizens, students, and the community. He pointed out on the overhead screen the building on Main Street (127 East Main), near the Madison County Courthouse, that they want to use – the building is perfect for the business. It is not being utilized at this time.

Ted Hill asked the hours of the business and the amount of employees at any one time.

Mr. Wentzel said the hours will be 7:00 am to 10:00 pm. The amount of employees at any one time could be up to 7 people.

Ted Hill asked how drop off and parking would be handled.

Mr. Wentzel stated there is on-street parking and a parking lot in the back of the building.

In answer to **Chairman Dyer’s** request for Hans.Wentzel to address a statement in his letter that said they could not open this business unless they could use this location, Mr. Wentzel stated they have very limited start-up funds. They have looked at many places and found only this one that addresses all the needs for their business without having to do physical changes. It needs to be move-in ready from day one.

**Randall Porter** asked if there are suitable restroom facilities.

Mr. Wentzel stated there are 2 restrooms. There is also a kitchenette with a breakroom.

The Commissioners continued to discuss this request.

**Dan Hanna** said the building the Wentzels are proposing to use has been empty over a year.

**Mary Ann Mounts** said she feels this business is a creative idea, and there is a need for such a business in the community.

Mr. Wentzel said state licensing is required for such a business, but that it cannot be obtained until the City approves the zoning, and then the fire department needs to inspect the facility, as does Health and Welfare.

**Thaine Robinson** expressed that he would not want to spot zone, but he would not be opposed to a conditional use permit for such a business granted within this zone. With a conditional use permit, the Commission could make sure the facility is safe and addresses any other concerns of the Commission.

Stephen Zollinger stated the Commission could amend the existing zone ordinance that would allow this non-traditional daycare, rather than a contracted daycare. It could be an allowed or a conditional use. If it is not a defined use, a conditional use permit would be the way to add it to the ordinance. Although Development Code 926 is in the middle of a clean-up, the Commission could start this particular process now in deference of the applicant's time concerns – it would be a simple change they could add to the zone.

In answer to **Dan Hanna's** question asking if the licensing board has a definition for his business, Hans Wentzel said he could look that information up and that this kind of care is called non-contractual or drop- in daycare. Mr. Wentzel said their main goal is to do this drop-in type of babysitting service – they plan on limiting the daycare side of the business to a certain number and age. It would be a stabilizer to the main business of drop- in babysitting. There will be a reception desk right in the entry, so that a child cannot enter or leave the building without an adult. There will be indoor play space, and no outdoor play space. This type of business thrives in retail spaces – it really has to be somewhere where people notice it.

**Mary Ann Mounts** motioned to amend the City of Rexburg's Development Code 926 ordinance. to allow a conditional use in the Central Business District (CBD),for a daycare business that is less than 50% contractual (traditional) daycare, with the majority percentage of this business to be drop- in child sitting daycare. **Dan Hanna** seconded the motion.

The Commissioners discussed the motion.

Stephen Zollinger agreed with Gary Leikness that the Development Code 926 will have short (a few lines) and lengthy changes. The Commission could separate them to move some of the clean-up along.

None opposed. **Motion carried.**

Gary Leikness clarified that what was just done was that the P&Z Commission feels it is a good idea for this request to go before public hearing. **Chairman Dyer** said that was correct. The applicant will work with the City staff to schedule a public hearing at the earliest possible date.

Stephen Zollinger estimated the process would take at least 60 days. It may be possible to do this Conditional Use Permit on the same hearing date as the Development Code ordinance amendment request.

December 23, 2008

Esteemed Mayor and City Commissioners,

RE: Zoning Permission or Re-Zoning Request

Time Away For Parents LLC is a childcare provider that offers drop-in (no appointment or commitment) and traditional childcare services. We will be the only childcare provider operating in the evening hours (until 10 PM) and the only provider that offers drop-in services. We are planning on opening in February 2009 and currently have funding and are in process of hiring our anticipated 20+ employees.

We hope to rent 127 East Main Street in Rexburg. It is ideally set up and no building modifications would need to be made. It is also the right size to accommodate the number of children that we plan on servicing. There is already ample parking for dropping off children. We have not found other suitable facilities in Rexburg as our limited startup funding will not allow for building modifications to other retail space in town.

This rental property is currently zoned CBD and is currently not approved for childcare use. We are seeking that the zoning laws be altered to allow childcare in this zone or that an exception be granted to allow us to open our business in this property. We will not be able to open this business in Rexburg, if an exception or re-zoning cannot be made.

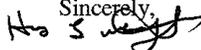
Benefits our business will bring to Rexburg:

- Additional childcare to ease the severe shortage of traditional childcare providers.
- Providing parents with a convenient childcare resource with short or no notice.
- Our evening business hours will allow parents to support local businesses like restaurants and shops that are currently suffering diminished business.
- Allowing married college students childcare options so they can take classes at the same time or complete assignments.
- Providing employment for more than 20 local employees in a time of scarce employment.

There are several examples of this type of business benefiting various communities across the country. This type of business needs proximity to "date-night" businesses like restaurants, retail, and other recreational interests. It also must have a prominent visible presence in the community to be successful. It is common for these types of businesses to be found in malls or heavily traveled retail spaces. This property location provides all of these attributes.

We understand that zoning issues will be discussed on January 15, 2009 at 7:00 PM. We would appreciate your hearing our request for re-zoning or an exception. Feel free to contact us if you have any questions at (208) 390-4799. We would be happy to prepare anything in advance that you would like to see, just let us know. Thank you for your time and consideration.

Sincerely,



Hans and Rebecca Wentzel  
Owners Time Away For Parents LLC

### 3. Reduced student parking discussion follow-up

Gary Leikness referred to the materials given to the Commissioners. The document before them is a draft ordinance amendment to Development Code 926 regarding parking language. It could be looked at as an overlay zone. PEZ stands for Pedestrian Emphasis Zone, which is now actually in the Comprehensive Plan as a policy recommendation to be explored. Mr. Leikness showed a boundary map on the overhead screen – for discussion purposes this is the Planning staff's proposed boundaries of this PEZ zone - the concept is reduced car usage to get to campus or other areas such as downtown Broulim's or other commercial services up through Second East. There is flat terrain, walkable, close to campus – focusing on students and other members of the community who may use walking to get to various areas. The draft ordinance before them strictly addresses the parking and its reduction. Mr. Leikness is suggesting that infill be encouraged and that the tendency to have dormitory housing further out be curbed. We really need to use creativity to find a way to do this. Height issue is not addressed in this draft. Apartment owners would be required to disclose in contracts whether there is a parking space available (in place now per Stephen Zollinger). Again, this is just a rough draft to be used strictly as a tool for developers. There is a need to encourage infill with large scale development.

Gary Leikness is recommending that parking requirements in this ordinance shall only apply to existing and proposed developments of twenty (20) or more units per building. It would not apply to houses.

The Commission continued to discuss the issue.

Gary Leikness briefly went over the points in the draft ordinance. He said #6 of the DRAFT should be stricken as this amendment does not apply to homes. There is a need to densify around the campus. There will be larger developments but they need to be attractive. Design Review committee involvement would allow for flexibility. We do not want sprawl. Landscaping in the front yard of a property needs to be delineated by high back curbing. Long term and short term parking for bicycles is required. This draft ordinance recommends that the PEZ boundaries not be altered for 10 years, to see if this tool to encourage infill works.

Gary Leikness displayed a map of building footprints on a typical block within the proposed PEZ boundaries showing inefficient use of space and where possible infill could occur.

Stephen Zollinger stated the draft ordinance's purpose is to encourage densification around the campus. It is motivation to increase density in that area.

There was further discussion of the PEZ boundary map.

Gary Leikness invited direction from the P&Z Commissioners.

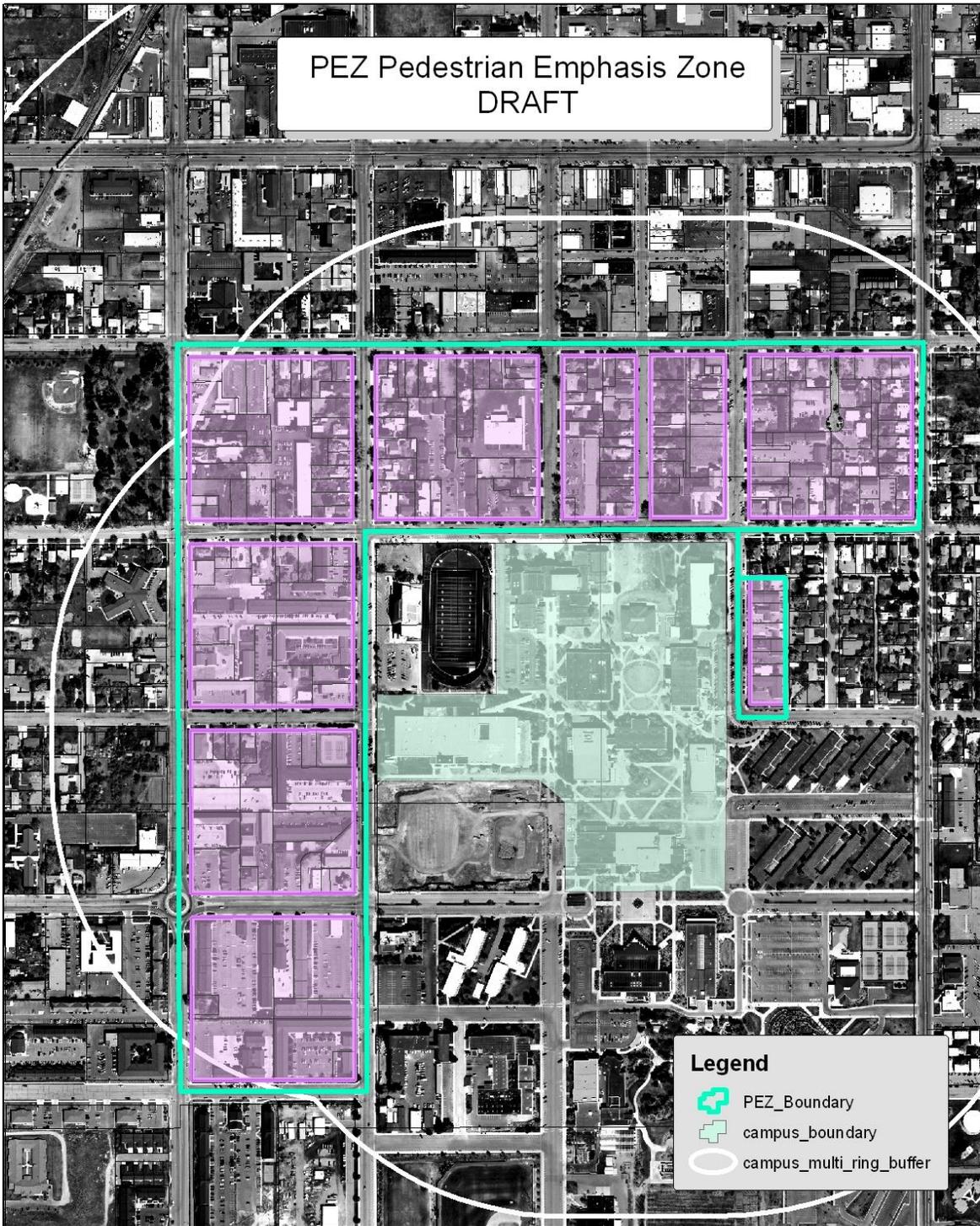
**Chairman Dyer** suggested the Commissioners study this draft, explore options, and give input. Gary Leikness hoped that at the next P&Z meeting he could receive input from the Commissioners.

Mr. Leikness stated the University would really like a solution or in place sooner rather than later because of coming student body growth.

Stephen Zollinger said they could explain to the university why houses are basically excluded in this draft - that the City would prefer older houses be bought up and torn down rather than bought up and converted. He expressed there will be more people in the area, calling for an increase in safety. He said as a heads up that parking around campus will be significantly curtailed to eliminate traffic concerns.

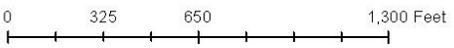
**Chairman Dyer** thanked Gary Leikness for putting the draft reduced parking ordinance amendment together.

PEZ Pedestrian Emphasis Zone  
DRAFT



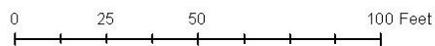
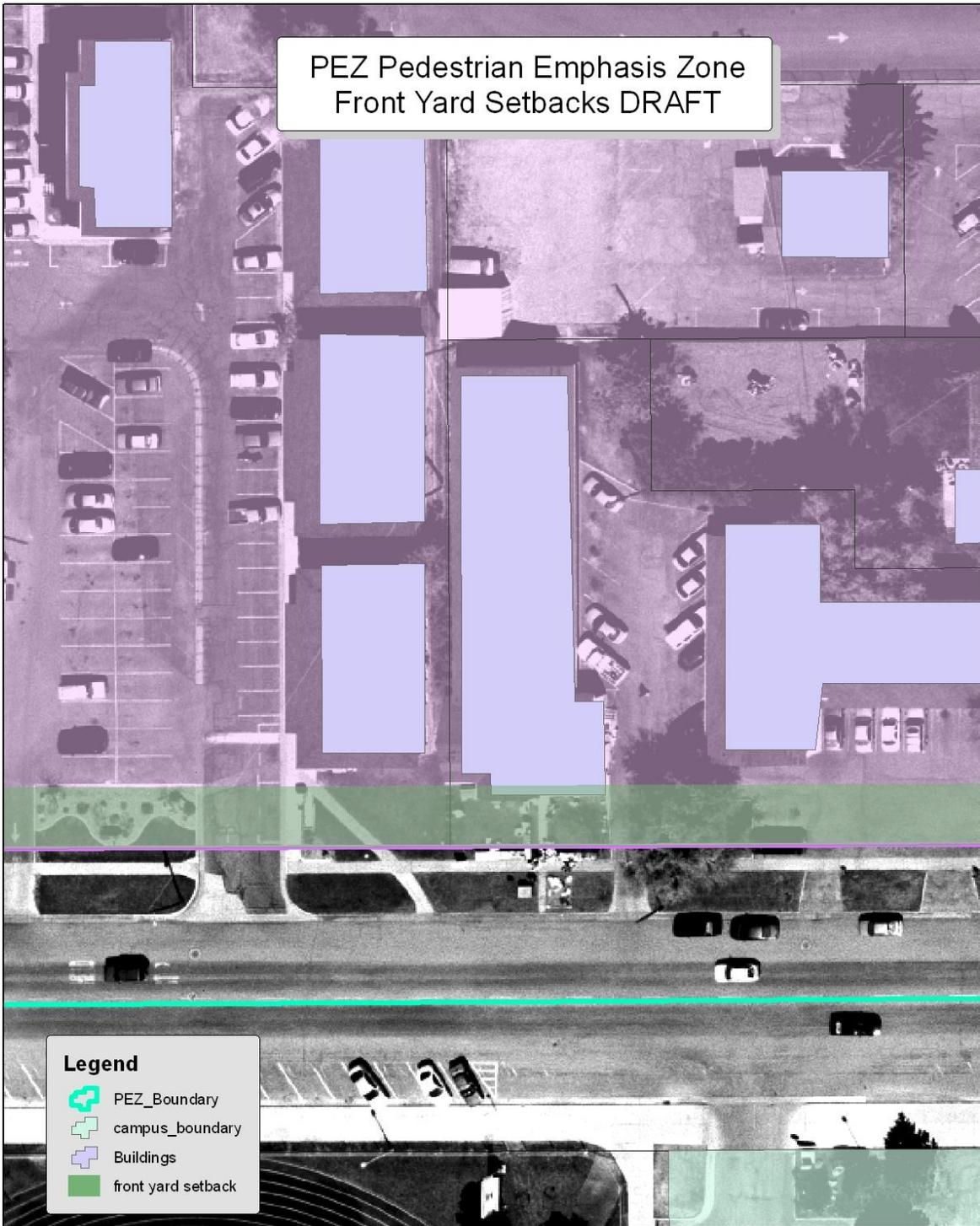
**Legend**

- PEZ\_Boundary
- campus\_boundary
- campus\_multi\_ring\_buffer



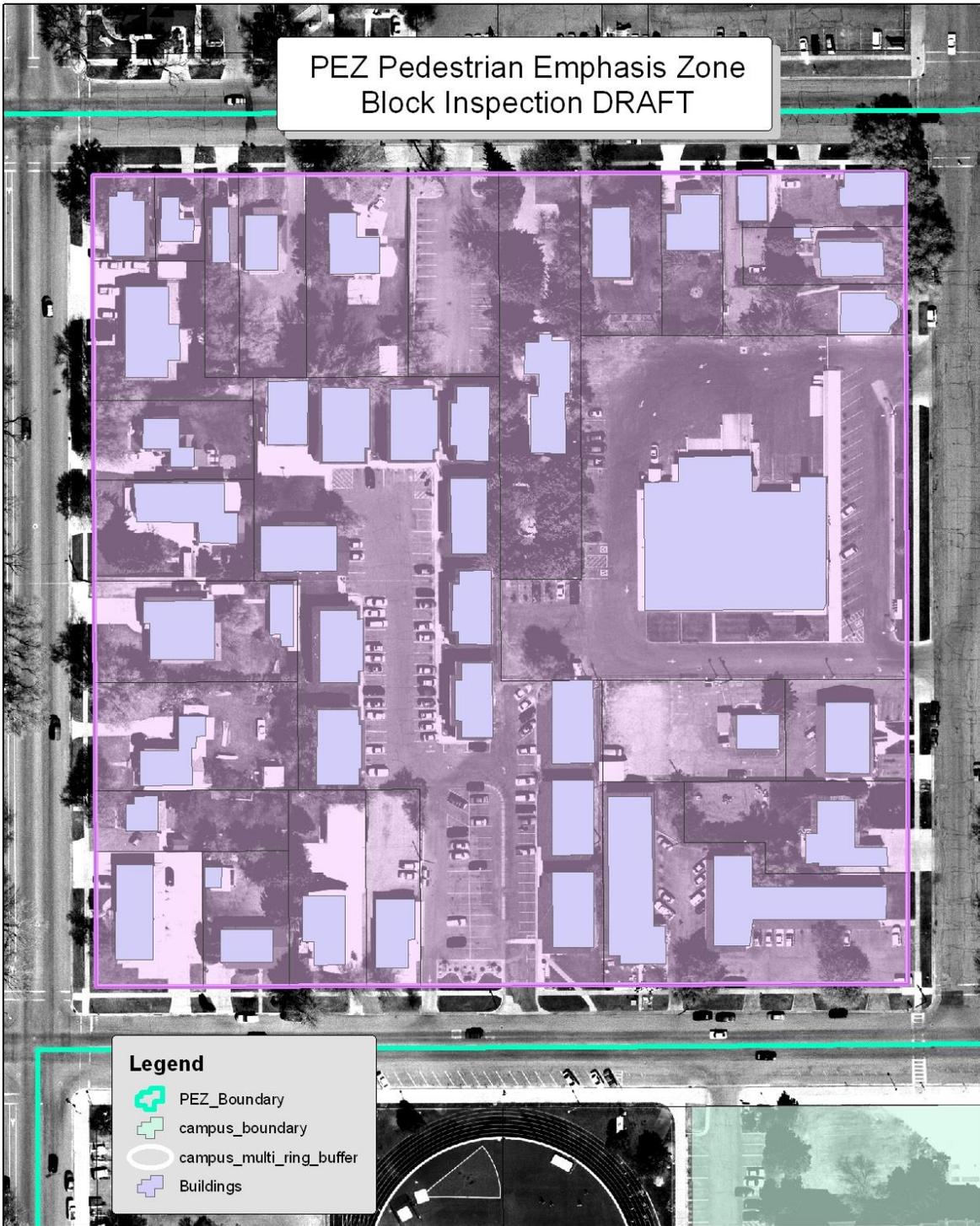
1 inch = 500 feet

PEZ Pedestrian Emphasis Zone  
Front Yard Setbacks DRAFT



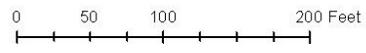
1 inch = 40 feet

PEZ Pedestrian Emphasis Zone  
Block Inspection DRAFT



**Legend**

- PEZ\_Boundary
- campus\_boundary
- campus\_multi\_ring\_buffer
- Buildings



1 inch = 100 feet

#### 4 Sign Ordinance – Temporary Signs and Banners

Gary Leikness reported on this issue – the packet information is a proposal to amend the current sign ordinance. The sign committee met once and gave input – they gave no feedback to the redraft he wrote that included their meeting input. What the Commission has before them is the information proposed. He briefly went through the draft which includes a revision of the statement of intent.

On Page 9 of the draft – the definition of a temporary sign – the time limit is changing from 60 days to 30 days, twice per calendar year but not consecutively, and are only intended for and allowed in nonresidential zones. Residential zones are excluded from temporary signs. However, elections signs are allowed

Language Mr. Leikness feels should be added to this draft is that mixed use, professional office zones, PRO zones and neighborhood or residential commercial zones would be considered as residential for the purposes of applying this section of the ordinance.

**Chairman Dyer** said this draft ordinance appears more restrictive.

The Commission continued their discussion.

Stephen Zollinger said that the definition of temporary signs needs to be polished. He also added that pennant flags cannot be regulated.

Gary Leikness recommended the Commissioners look through the provided material, and then give direction and input to him at a future meeting.. The Commission would then send it forward. Besides the suggested mixed use change just stated, Mr. Leikness recommends that in regard to framing (page 13 of the draft), banners should match the size of their frames with no gapping between the sign and the frame, and that the sign should not be larger than the frame and as a result be wrapped around the frame..

Further discussion of this issue will be at a future meeting.

#### **Report on Projects:**

1. New year's project priority discussion –

Gary Leikness went over the project priority list and asked the Commissioners to prioritize across the board the items listed so they can be discussed at a future meeting.

**Tabled Requests:** None

**Building Permit Application Report:** None

**Heads Up:**

1. Mike Ricks, P&Z Commissioner – Recognition of Service – **February 19th** P&Z meeting
2. Development Code 926 – Work Session  
-targeting the **February 5<sup>th</sup>** meeting
3. Letters regarding final plat recording- Staff explained that they are putting together letters to remind all applicants who have final plats that have been approved by the City, but not recorded at the County that their plats will be expiring soon.

The Commissioners discussed the Heads Up.

**Chairman Dyer** adjourned the meeting at 9: 53 pm.