

# Planning & Zoning Minutes

October 20, 2011

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

## Commissioners Attending:

Winston Dyer – Chairman  
Richie Webb  
Nephi Allen  
Jedd Walker  
Scott Ferguson  
Marilyn Rasmussen

## City Staff and Others:

Rex Erickson – City Council Liaison  
Val Christensen – Community Development Director  
Daren Spencer – Community Development Intern  
Elaine McFerrin – P&Z Coordinator

**Chairman Dyer** opened the meeting at 7:04 pm. He welcomed everyone.

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

Scott Ferguson, Nephi Allen, Richie Webb, Winston Dyer, Marilyn Rasmussen, Jedd Walker

Thaine Robinson, Gil Shirley, Cory Sorensen, Mary Ann Mounts, and Dan Hanna were excused.

## Minutes:

1. Planning and Zoning meeting - October 6, 2011

**Richie Webb** motioned to approve the Planning & Zoning minutes of October 6, 2011. **Jedd Walker** seconded the motion.

Marilyn Rasmussen and Scott Ferguson abstained for not having been present.  
None opposed. **Motion carried.**

## Public Hearings:

**Chairman Dyer** explained the procedure that is followed for a public hearing. The applicant or a representative will present the proposal. The Commission may then ask clarifying questions of the applicant and of staff. Public input will then be heard from those in favor of, neutral to, or opposed to the proposal. Staff evaluation and recommendations will be given. The Commission will then deliberate in order to come to a decision on the proposal.

### 7:05 pm - Conditional Use Permit – 334 Harvard – to allow a duplex in an existing home

Commissioner Scott Ferguson recused himself due to direct conflict of interest. He is the applicant for this Conditional Use Permit (CUP) request.

**Scott Ferguson**, 576 Maple. He and his wife Julie are requesting a Conditional Use Permit for 334 Harvard Ave, for a duplex. They bought the property about 6 months ago. At that time it was vacant and had been vacant off and on for the last three or four years. They checked with the City at that time regarding whether the property had the proper zoning to have a family duplex. The

property is zoned Low Density Residential 2 (LDR2) which allows a duplex through a Conditional Use Permit. They proceeded to renovate the property and have completed all necessary improvements through a building permit, including a life safety inspection. This particular property has been rented out, both the upstairs and the downstairs, for about thirty years. Mr. Ferguson does not know if the use was ever grandfathered, but it would not matter now, as this property was vacant too long to be considered a grandfathered duplex use. They are asking that the duplex be allowed for this property.

**Marilyn Rasmussen** asked if the Fergusons were intending to use the property as a duplex rather than as a home when they purchased it.

**Scott Ferguson** said the plan was for them to live upstairs, although they were not sure how long that would be, and to rent out the downstairs basement. Due to some circumstances, they have moved out, which was not the initial plan. It was always the plan to rent out the basement. They took the stairway out when they first bought the property, and they completely gutted the home and filled in the stairwell. The apartments are for married couples, which fits into the neighborhood. The apartments cannot be for single students.

**Marilyn Rasmussen** stated the Fergusons are taking it into account that this neighborhood is family oriented.

**Mr. Ferguson** said that was correct.

**Richie Webb** asked what the neighborhood is like currently and whether it is mostly single family.

**Scott Ferguson** said the east side of Harvard Ave is zoned LDR1 and the west side of Harvard Ave is zoned LDR2. On the LDR2 side of Harvard Ave., many of the houses have the ability to rent out a basement, but there are only two houses that do so (the properties were pointed out on the projected map). On the LDR1 side of Harvard Ave, half the homes have basement apartments, which are grandfathered in.

**Chairman Dyer** requested that the Ferguson property be pointed out on the map, followed by other properties operating as duplexes.

**Scott Ferguson** pointed out various properties. There are some single family homes. The property to the north and on the corner is kind of an anomaly - it is a grandfathered dormitory use. The street is a mixed bag. He knows there are concerns. People want to preserve the neighborhood as residential; on this particular block there is a mix.

**Chairman Dyer** addressed parking requirements for two families/duplex. 4 parking spaces are required.

**Scott Ferguson** said they have the required parking - a double garage and two spaces in the driveway. There is also an additional possible space in the driveway.

**Chairman** stated the Commission always is concerned with life safety issues when looking at allowing a duplex request.

**Val Christensen** said all concerns and requirements have been addressed.

**Jedd Walker** asked what kinds of residences are south of the subject property.

**Scott Ferguson** stated there are single families in the 2 homes in the LDR2 zone to the south.

**Val Christensen** added that Central High School is also to the south, and the Kensington Apartments are to the west of the subject property.

**Mr. Hillier** in the audience asked for some clarification. What is changing? The zone is not changing. He asked for clarification of the proposal.

**Chairman Dyer** said the zoning is not changing. In a zone, there are certain uses that are allowed by right (permitted) in a zone. There are other uses that are called conditional. An applicant may or may not be allowed to do a conditional use; it depends on the impact the conditional use would have. Taking a single family home and converting it to a duplex is a conditional use in the LDR2 zone. It will be looked at and evaluated. If it does not have negative impacts, and if it blends with the character of the neighborhood, then it can be permitted under a conditional use, and the Commission could set certain conditions on the use.

**Mr. Hillier** wondered if the property had been a misuse for the last 5 years.

**Val Christensen** clarified that the LDR1 zone across the street from the subject property does not allow duplexes; the LDR2 zone allows a duplex with a conditional use permit. Many houses on the hill were dormitory use and duplexes, prior to the existence of City ordinances, so these uses were considered grandfathered.

A duplex is 2 single family units on one lot. The property owner does not have to live at the location.

**Mr. Hillier** said the subject property was used as a duplex in the past. People did that without going through the proper procedures.

**Mrs. Wasden** in the audience asked who is responsible for the property if the owner does not live there. Some properties have unmowed, unwatered lawns. It does make their neighborhood look bad if the properties are not cared for.

**Chairman Dyer** said the owner is responsible for the care of the property. The City has a nuisance ordinance and a process that is gone through if there are problems. The City's Compliance Officer, Natalie Schneider, addresses any problems and would contact those responsible. Anyone can call the City with any concerns.

**Chairman Dyer** opened the public input portion of the hearing.

**In Favor:**

**KJ Johnson**, 221 South 2<sup>nd</sup> East. He lives about a block away from the subject property. He considers himself a neighbor and is in favor of the proposal. He does not see this matter changing neighborhood dynamics. A lot of the properties in the area have basement apartments. From what he has seen of this subject property in the past is that if people were there, that was transient. For the most part, it has been vacant and not very well taken care of. Mr. Ferguson lives here in Rexburg and can make sure the property, including the lawn care mentioned earlier, is taken care of.

**Neutral:**

**Rosa Wasden**, 342 S. 3<sup>rd</sup> E. She has great respect for the Fergusons and has known them for years. She is concerned. Her backyard is very close; the changes are creeping close to her neighborhood. At some point a line needs to be drawn. The neighborhoods need to be protected. She values her home very dearly. Some changes could hurt. Please keep this in mind.

**Dale Hillier**, 335 Harvard. He lives across from the Ferguson home. He has struggled with this issue for numerous days. The Fergusons moved in 6 months ago, and they have enhanced the property immeasurably. The home was completely gutted; the significantly enhanced and improved property has helped all of their property values. He has no concerns with the Fergusons. They are dear friends. His concern always is with when a zoning change occurs, what will the long term effect

be? The property could be sold at any time. Someone else may not take proper care of the property. The rest of the neighborhood would have to live with that.

**Mr. Hillier** does not see that this matter is changing anything. It just legalizes the use. He wanted to correct Mr. Ferguson's statement that the property has been rented out as a duplex for 30 years. The property was a single family occupied home at one time. He is not sure that the basement apartment use was ever grandfathered, but it has been used in the last 5 years. He has the same concerns as Mrs. Wasden. The neighborhood is very concerned. He is asking, begging; please remember this as a family neighborhood. They want families here. The University continues to grow. The question is where do they put the students and to what expense? Do they have to stay within a certain distance from campus? This could radically transform the neighborhood, which has a distinctive look and feel. He bought his home there, like others, so he could walk to work, at the University. This helps because it reduces traffic. His concern is with the general flow and creep of the neighborhood, and what kinds of proposals and actions are being made. Please take this issue into serious consideration. The mow down and rebuild mentality is very dangerous. There is nothing anywhere that says that students can only be housed in the direct perimeter of the University. He takes a neutral response to this Ferguson proposal.

**Opposed:** None

**Written Input:** None

**Chairman Dyer** closed the public input portion and asked for the staff evaluation and recommendations.

**Val Christensen** reiterated that the requested use is not a dormitory use. It is single family use – at the higher density of a duplex. Dormitory use is not allowed in the LDR2 zone. City staff is very cognizant of the dormitory issue and is not interested in it for this area. People in the past have made their basements into apartments for another family. Many of those apartments are considered a grandfathered use. The majority of the hill has actually come forward and gotten the zoning changed. The corner property at Harvard and 3<sup>rd</sup> South was grandfathered as a dormitory use. If the property does not continue the dormitory use that was grandfathered, the property would return to single family use.

The City- staff, the P&Z Commission, and the City Council - has drawn a hard line on protecting the neighborhoods. It is important. The PEZ overlay was created to put higher density in certain areas, with the purpose that such use does not spill into neighborhoods. The City would encourage that the neighborhoods support the high density in these areas realizing that the City has their back and is protective of the residential neighborhoods. The City is very aware of the concern of the neighborhoods and the issue of creep.

**Chairman Dyer** said no conditions of approval have been stated in the staff report, the idea being that if this request were approved, there are standard requirements for a Conditional Use Permit clearly stated in the Development Code 1026 ( Section 6.12B).

**Val Christensen** said that is correct. Size requirements for the lot and for parking have been met. All life safety issues have been addressed.

**Marilyn Rasmussen** asked for clarification on if the subject property were sold.

**Val Christensen** clarified that the Conditional Use Permit goes with the property and not the owner. However, if the property is taken out of the specified use for a year, the property would revert to single family use.

**Jedd Walker** felt that the concern of student housing encroaching in the subject area is something he does not see as happening. This is a duplex and not dormitory housing. It still is consistent with the neighborhood. It is still family housing. He does not see this matter as the camel's nose that would be turning the area to dormitory housing if this conditional use is granted.

**Richie Webb** agreed with Mr. Walker. Whether there are one or two families living there, that does not change the dynamics of the neighborhood. The Fergusons have demonstrated their interest in improving and maintaining the subject property, which enhances the neighborhood. He does not see a negative impact to the neighborhood in any way.

**Chairman Dyer** noted that the neighbors in the area have been very concerned. The P&Z Commission is on record as having championed their cause and encouraged them to form a neighborhood association and to come to this body with input. The Commission also is on record in stating that they will protect the neighborhood from encroachment and expansion. The neighborhood association was formed. The Commission feels that there are protections in place. There is a clear transition of buffered and stepping-down zoning – from multifamily on 2<sup>nd</sup> East, and then purposefully zoning the west side of Harvard Ave. as LDR2, so that duplexes could be permitted as a conditional use. Then, across the street on Harvard Ave. to the east, the zoning is LDR1, which does not allow duplexes.

The **Chair** reiterated that this stepping-down zoning was purposefully done as everything was put together in the City's zoning plan. Based on the testimony tonight, the fact of the matter is that all kinds of Harvard Ave. homes have had or have two families living in them. This request is consistent with everything the Commission has tried to do. It is consistent with the neighborhood character as an allowable use in the zoning with conditions.

**Chairman Dyer** noted consensus of the Commission to approve the CUP. He asked for discussion of possible conditions.

**Nephi Allen** said his concerns - life safety and parking - have been addressed and taken care of.

There was consensus of the Commission to approve the CUP.

**Chairman Dyer** stated there are standard conditions in the Development Code Ordinance No. 1026 - "Standards Applicable to Conditional Use Permits" in Section 6.12B.

**Jedd Walker** motioned to approve a Conditional Use Permit for a duplex for property located at 334 Harvard Ave., with the "Standards Applicable to Conditional Use Permits", Section 6.12B in the Development Code Ordinance No.1026. **Nephi Allen** seconded the motion.

None opposed. **Motion carried.**

**From Development Code No. 1026:**

"6.12B. - Standards Applicable to Conditional Use Permits. The approving body shall review the particular facts and circumstances of each proposed conditional use and shall find adequate evidence to show that the proposed use will:

1. *Constitute a conditional use as established in Table 1, Zoning Districts, and Table 2, Land Use Schedule.*

2. *Be in accordance with a specific or general objective of the City's Comprehensive Plan and the regulations of this Ordinance.*
3. *Be designed and constructed in a manner to be harmonious with the existing character of the neighborhood and the zone in which the property is located.*
4. *Not create a nuisance or safety hazard for neighboring properties in terms of excessive noise or vibration, improperly directed glare or heat, electrical interference, odors, dust or air pollutants, solid waste generation and storage, hazardous materials or waste, excessive traffic generation, or interference with pedestrian traffic.*
5. *Be adequately served by essential public facilities and services such as access streets, police and fire protection, drainage structures, refuse disposal, water and sewer service, and schools. If existing facilities are not adequate, the developer shall show that such facilities shall be upgraded sufficiently to serve the proposed use.*
6. *Not generate traffic in excess of the capacity of public streets or access points serving the proposed use and will assure adequate visibility at traffic access points.*
7. *Be effectively buffered to screen adjoining properties from adverse impacts of noise, building size and resulting shadow, traffic, and parking.*
8. *Be compatible with the slope of the site and the capacity of the soils and will not be in an area of natural hazards unless suitably designed to protect lives and property.*
9. *Not result in the destruction, loss or damage of a historic feature of significance to the community of Rexburg."*

Scott Ferguson rejoined the Commission on the dais.

7:20 pm – Rezone – 271 South 2<sup>nd</sup> West – Community Business Center (CBC) to  
High Density Residential 1 (HDR1)

**Toyke Meynders**, 271 S. 2<sup>nd</sup> W., owner of the property. He and his wife Lisette are requesting that the zoning be changed to High Density Residential 1 from the current zoning of Community Business Center. The property was formerly the Days Inn. Prior to purchasing the property, they discussed with City officials their intent to change the use from a hotel to student housing. When they were in the tail end of the application process, they discovered that the property needed a zone change, which they are requesting tonight. The properties around them are zoned high density residential; their property is in the PEZ1 overlay. Taco Time is across the street to the west and is the only other property near to them that is zoned Community Business Center.

**Marilyn Rasmussen** asked the number of students this complex will house.

**Mr. Meynders** said there will be 78 students. There will also be a manager's unit. The motel had been a 44- unit hotel.

**Chairman Dyer** asked about the current construction that is occurring on the property. Normally construction does not start until permission has been given. What does that mean in terms of this proposal?

**Toyke Meynders** said they realize that if their request is denied, they have wasted a lot of money. It is a chance he has taken. They were not aware of the zoning needing to be changed for their project. Not knowing that, they went forward and asked for a demolition permit.

**Chairman Dyer** stated that this issue is a very important point for the record. This issue is something that the applicants have done on their own and not at any direction or instruction from the City.

**Mr. Meynders** said that is correct.

**Val Christensen** pointed out the zoning for the subject area, on the projected map. The area is mostly High Density Residential 1 (HD1) around the property, and Medium Density Residential 1 (MDR1) kitty-corner, with some Community Business Center (CBC) on the corner across the street to the west.

**Chairman Dyer** pointed out that there are islands of CBC zoning.

He said the requested zone change is consistent with the Comprehensive Plan.

**Mr. Christensen** said that was correct.

**Chairman Dyer** opened the public input portion of the hearing.

**In Favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:** None

The **Chairman** closed the public input portion of the hearing.

**Val Christensen** gave the staff evaluation and recommendation. The Comprehensive Plan Map land use designation for the subject property is Moderate-High Density Residential. This request is consistent with this preferred land use designation. The City Engineer did not see any concerns. There should not be any added impact on the infrastructure. There may be an impact on the parks, in regard to usage. Any impact fees associated with building permits would address this issue. The building will need to be sprinklered, as a life safety issue. The staff recommendation is to proceed with the zone change.

**Chairman Dyer** asked for statements of conflict of interest.

**Nephi Allen** declared a direct conflict of interest. He is the plumber for the project. He stepped down and recused himself. He was excused from the remainder of the meeting.

**Chairman Dyer** declared a perceived conflict of interest. He did a structural calculation on this property for the applicant. That matter has been completed and paid. He does not have any further interest in the outcome of this proposal and would propose to stay as part of the Commission. The Commissioners had no objection to Chairman Dyer remaining on the dais as part of the Commission.

**Chairman Dyer** reminded the Commission that their discussion is a land use discussion on the zoning. Is the use appropriate and consistent with the surrounding neighborhood? Are there concerns for any impacts that would be created?

**Scott Ferguson** said the use is very consistent with the neighborhood and is desirable for this location.

**Marilyn Rasmussen** said this use is the best use for the building. She likes that this project is going to be at this location.

**Jedd Walker** concurred. The only other thing he would like to see is that the zoning in the blocks next to the campus should go to HDR2 or MU2 zoning. This would be for discussion at another time.

**Chairman Dyer** agreed with **Mr. Walker** that his point about zoning next to campus should be one for future discussion.

**Scott Ferguson** motioned to recommend approval to City Council for a zone change from Community Business Center (CBC) to High Density Residential 1 (HDR1) for the property located at 271 South 2<sup>nd</sup> West. **Richie Webb** seconded the motion.

None opposed. **Motion carried.**

7:40 pm - Conditional Use Permit - 271 S. 2<sup>nd</sup> W. - to allow a lowered number of parking spaces through use of the Pedestrian Emphasis Zone (PEZ) Ordinance No. 1021

**Chairman Dyer** noted for the record that the information in the previous hearing tonight for the rezoning of this specified property stands.

**Toyke Meynders**, owner of the property, presented the proposal. They are asking for a Conditional Use Permit for reduced parking. There is not room for one-to-one parking spaces for the apartment residents. They had planned for 39 parking spaces, but they now have 36 spaces due to widening of the driveway on 3<sup>rd</sup> South for fire truck access. In addition, the approach from South 2<sup>nd</sup> East has been closed. They felt that students exiting the property would try to make a left turn, which would be too close to the intersection. There is enough room for the approach to be on 3<sup>rd</sup> South.

They have spoken to the University about having up to 50 additional parking spaces available on campus for their residents.

**Chairman Dyer** entered into the record a letter from BYU-Idaho's Office of Student Well-Being, indicating BYU-Idaho's willingness to contract with Arpad Apartments for off-site and overnight parking in one of the University's long term parking lots. The applicant submitted the letter with his Conditional Use Permit application.



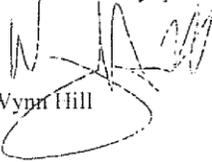
**Student Well-Being**

Brigham Young University-Idaho • 290 Kimball Building • Rexburg, ID • 83460-1688

September 14, 2011

To Whom It May Concern:

Brigham Young University- Idaho would be willing to contract with Arpad Apartment Complex for off-site and overnight parking in one of the universities long term lots. Please feel free to contact with any questions or concerns.



Wynn Hill

**Chairman Dyer** noted for the record that the subject property is in the Pedestrian Emphasis Zone 1 (PEZ 1) overlay, which allows a reduction in parking in return for some pedestrian amenities. He asked what the community would receive as far as pedestrian amenities and other benefits, in return for the reduced parking.

**Toyke Meynders** said they have enhanced the subject property for the neighborhood. They have planted trees and grass. Along the sidewalk, there are a couple spots designated for park benches for students or whoever is walking by. Bicycle parking will be provided.

**Chairman Dyer** asked about the widening of the sidewalk on West 3<sup>rd</sup> South.

**Val Christensen** said that is a consideration. It is reasonable to expect wider sidewalks in the direction of campus.

**Toyke Meynders** said the current sidewalks are 5-feet wide on 3<sup>rd</sup> South.

The **Chairman** stated that the PEZ Ordinance does require wider sidewalks.

**Mr. Meynders** said they do have future plans for the property. If they are able to acquire the properties between their subject property and the University, if the owners would like to sell, after 5 years the Meynders would like to tear down all the buildings including their own, to build one large structure. They have not yet been in contact with their neighbors on this matter.

**Marilyn Rasmussen** asked where the long-term parking would be on campus.

**Phil Packer**, BYU-I representative in the audience, stated that long term parking is now across from the temple on 7<sup>th</sup> South. Eventually, there will be a storage lot on University property to the south of campus.

**Marilyn Rasmussen** asked if there will be shuttles to the vehicles.

**Toyke Meynders** said the idea was that the students would park their vehicles in the long-term lot and not be in need of the vehicles, except perhaps on week-ends.

The site plan for the project was viewed.

**Chairman Dyer** asked if the City could consider putting off the sidewalk widening to make it more consistent since there is reasonable probability of further re-development. The matter could be a condition.

**Val Christensen** stated that is a possibility.

**Marilyn Rasmussen** asked if the owners or the students will pay for on-campus parking.

**Mr. Meynders** stated that they are struggling with that issue.

**Chairman Dyer** said technically the owner is responsible; they have the option to filter cost to the students who wish to utilize the parking.

There are also no-parking contracts that the City Attorney reviews and approves.

**Richie Webb** asked the number of visitor parking spaces.

**Mr. Meynders** said visitor parking spaces would be 10 %; they would have 8 visitor spaces out of the total of 36 spaces, leaving 28 spaces available for the students.

**Chairman Dyer** said the project's parking is at 41% as opposed to the 100% outside the PEZ overlay.

**Chairman Dyer** said the Fire Department review comment mentions an additional fire hydrant. If this were a new development on undeveloped property, that would make a lot of sense. Since this property has been developed forever and the occupancy is being reduced from what it was, he asked for clarification.

**Val Christensen** said the Fire Department is looking at the Building Code and the change of use. The applicant may want to address the issue further with Fire Department staff.

**Chairman Dyer** opened public input.

**In Favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:** None

**Chairman Dyer** closed the public input portion of the hearing and asked for the staff evaluation and recommendations.

**Val Christensen** re-emphasized and clarified that City staff let Mr. and Mrs. Meynders know when they decided to move ahead with the demolition and the work they are doing currently on the subject property, they were informed upfront by City staff that they were doing so at their own risk. The Meynders had then asked for Staff feelings and direction on the issue. Staff told the Meynders that they could not speak for the P&Z Commission or the City Council, but that it was Staff's feeling that the request should fly.

**Chairman Dyer** thanked **Mr. Christensen** for the clarification; so noted for the record.

**Val Christensen** said this Conditional Use Permit request is the first one with an existing building rather than a new structure in the PEZ1 overlay. Staff found no reason or caveat that the applicant could not request less parking through the PEZ ordinance through a CUP application. The purpose of the PEZ is to reduce the amount of cars and to redevelop, and this request meets the spirit of that issue.

**Mr. Christensen** reiterated this is an existing building. The City likes and appreciates that the applicants were willing to shut off an entrance on 2<sup>nd</sup> West. Staff feels that is very positive. The applicant has also worked with the Fire Department and the City Engineer to establish the manner of the fire truck access.

The request is in accordance with the Development Code and the Comprehensive Plan.

The development could create a higher impact on the park usage. This issue will be addressed by Public Works. There should be little impact for traffic.

The proposed conditions of approval are standard. However, **Mr. Christensen** emphasized that proposed condition # 6, regarding parking contracts, uses stronger clarifying language than in the past, as parking contracts have been a concern.

The number of off-site parking contracts was discussed.

**Scott Ferguson** thought the safest thing in his opinion is to let the market drive the number instead of stipulating a certain amount of spaces. It is to the owners' advantage to have enough parking, either in their own facility or on campus.

There was Commission consensus on this point.

It was decided that parking contracts would be further discussed at the next P&Z meeting on November 3<sup>rd</sup>.

**Jedd Walker** suggested that in conjunction with discussing parking contracts, the Commission should discuss City parking permits on City streets.

**Val Christensen** reiterated that the Conditional Use Permit request would be moving forward on the assumption that the zone would be changed, as requested in the previous rezone hearing(Condition #8).

**Jedd Walker** was concerned about snow removal or storage.

**Val Christensen** said when the developer took out the driveway; snow storage could be in that area and around back. 10 % of the parking lot area would have to be identified for snow storage.

**Chairman Dyer** said the question before the Commission is shall a Conditional Use Permit be issued for the specified property, to allow a reduction in required parking in return for pedestrian amenities and subject to conditions.

Maintaining 41% parking could be proposed condition #9.

**Scott Ferguson** said the Commission recommended approval of the zone change, it makes sense to move forward to recommend approval of the Conditional Use Permit request.

**Jedd Walker** concurred with **Mr. Ferguson**. This project gets more students closer to campus, which was the reason behind the PEZ. The property is being improved. With conditions, he would be for approving the CUP.

The issue of the sidewalk widening was discussed.

**Richie Webb** thought the applicant should be held to completing the 8-foot width standard for the sidewalk. It would be a long time before possible further re-development. The sidewalk widening should be required now. There should not be a sunset clause, as all other developers have had to complete this requirement.

This widening of the sidewalk to the 8-foot width could be proposed condition #10.

**Marilyn Rasmussen** said she liked the clarification of parking contracts in proposed conditions #6.

**Richie Webb** said he was pleased to see a Design Review Committee requirement, as stated in proposed condition #2. It is important with this type of project.

**Jedd Walker** motioned to recommend approval to City Council to grant a Conditional Use Permit for the property located at 271 South 2<sup>nd</sup> West to allow a lowered number of parking spaces through use of the Pedestrian Emphasis Zone (PEZ) Ordinance No. 102, to include the eight proposed conditions of approval stated by staff in the Community Development Department staff report; and to include two additional proposed conditions: **#9** - 41 % parking shall be maintained in perpetuity, and **#10** –the sidewalk along 3<sup>rd</sup> South shall be 8-feet in width. **Scott Ferguson** seconded the motion.

None opposed. **Motion carried.**

**Conditional Use Permit #11 00318 Toyke Meynders  
271 South 2<sup>nd</sup> West  
Proposed Conditions of Approval**

1. *A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, snow storage, drainage, etc. shall be submitted and approved by the City prior to the issuance of a building permit.*
2. *Design Standards and a landscape plan shall be reviewed and approved by the Design Review Committee prior to the issuance of a building permit.*
3. *Lighting shall be low (under 15-feet in height) and not create glare, and as a minimum shall adhere to the City's lighting ordinance.*
4. *To encourage alternative travel options, i.e. bicycling, bike racks and hard surface must be provided. Location of racks needs to be shown on site plan. This requirement is identified in the PEZ Ordinance.*
5. *Sidewalk and pathway maintenance to be performed as per the PEZ Ordinance.*
6. *Parking Contracts to be approved by the City Attorney. The complex management shall be responsible to make sure that only those with parking contracts be allowed to park at site. BYUI storage parking shall be purchased by the complex management and contracts made with students for this parking. All other students will have a contract that clearly states that they do not have a parking space and must not park on the City streets or parking lots.*
7. *Requirements of the PEZ Ordinance are to be applied to this project.*
8. *The Conditional Use Permit is contingent upon the zone change from CBC to HDRI.*
9. *41% parking shall be maintained in perpetuity.*
10. *The sidewalk along 3<sup>rd</sup> South shall be 8- feet in width.*

**Unfinished/Old Business:** None

**New Business:** None

**Compliance:** None

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

**Jedd Walker** thought that besides discussing parking contracts at the next P&Z meeting, the Commission needs to talk about the possibility of expanding the area for City parking permits.

**Val Christensen** said staff is addressing this issue now. They need to get parking contracts better resolved. This is a serious aspect of the Pedestrian Emphasis overlay; put the compliance not only at the City level, but also put the compliance back at management.

**Report on Projects:** None

**Tabled Requests:** None

**Building Permit Application Report:** None

**Heads Up:**

November 3<sup>rd</sup> – Rezone – 420 and 450 West 4<sup>th</sup> South – Community Business Center (CBC) to Mixed Use 2 (MU2).

The meeting was adjourned at 9:25 pm.