

Planning & Zoning Minutes

May 17, 2012



CITY OF
REXBURG
America's Family Community

35 North 1st East
Rexburg, ID 83440

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Phone: 208.359.3020
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Commissioners Attending:

Winston Dyer – Chairman
Dan Hanna Thaine Robinson
Scott Ferguson Richie Webb
Marilyn Rasmussen Cory Sorensen

City Staff and Others:

Val Christensen – Community Development Director
Stephen Zollinger – City Attorney
Craig Fisher – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:05 pm.

Roll Call of Planning and Zoning Commissioners:

Cory Sorensen, Scott Ferguson, Richie Webb, Winston Dyer, Dan Hanna, Marilyn Rasmussen

Mary Ann Mounts, Nephi Allen, Gil Shirley, and Jedd Walker were excused.

Thaine Robinson arrived at 7:06 pm.

Minutes:

1. Planning and Zoning meeting - May 3, 2012

Dan Hanna motioned to approve the Planning & Zoning minutes of May 3, 2012. **Scott Ferguson** seconded the motion.

Marilyn Rasmussen, Richie Webb, and Cory Sorensen abstained for having not been present. None opposed. **Motion carried.**

Public Hearings:

Chairman Dyer briefly explained the procedure followed for public hearings before their presentations.

1. 7:05 pm – Conditional Use Permit – 51 South 1st East – to allow zero percent commercial in Mixed Use 2(MU2), and to take advantage of a lowered number of parking spaces from 100 percent required parking to 48 percent through the use of the Pedestrian Emphasis Zone (PEZ) Ordinance No. 1021.

Richie Webb recused himself due to potential conflict of interest.

Ryan Lerwill, 1216 Stocks Ave., representing Run Hard, LLC, presented the proposal. The applicant just underwent a rezone approval of the property to Mixed Use 2 (MU2). They are striving for a pedestrian friendly development. Their compliance demonstration document was shown listing Pedestrian Emphasis Zone (PE) requirements and how the applicant is going to meet those requirements. They will have 48% parking; they have tried to push parking to the back (northeast section of property). They are striving for the front of the property to be pedestrian friendly. There will be trees and landscaping, with the necessary visitor and manager parking spaces and handicap parking. Parking is all the way to the sidewalk currently, but there will be a 10- foot setback with the planned project. The basic layout of the structure was shown. They plan to have park benches and

paver circles as part of the tenant amenities. The waterfall at the front of the property will remain as a great feature.

Rental contracts will clearly specify who will or will not have parking spaces. Bicycle parking will be nonvisible from the front of the property. There will be 20 percent indoor bicycle parking storage besides the 10 at the rear of the building. Existing sidewalks are in good shape; they will maintain and add landscaping. There will be pedestrian walkways on the property. Sidewalk maintenance was addressed. Access across any parking areas and sidewalks will be accessible to pedestrians from adjacent properties. The parking lot on the north is owned by Key Bank and is not part of this application. There is an ingress/egress easement in place. Clear signage will be used to designate the parking for the complex.

Thaine Robinson said the PEZ Ordinance requires 8-foot sidewalks. Is the developer willing to increase their sidewalk width?

Ryan Lerwill stated they would be willing to do so. He stated the applicant is going to great lengths to put all parking in back to the northeast. The current fencing around the property is a mixture of concrete stem-wall with chain link on top, and wood slat fencing. One small area has no fencing – near the property to the south. He addressed the east and south wall and the east wall of the pool building. It has been inspected by an engineer and a mason; the façade is in need of repair. There is plenty of room on the property for snow storage. They will haul off snow if necessary. The property is approximately 930 feet from the University's Kirkham Building and is in the PEZ Area 1. There will be pedestrian friendly access to campus as well as to Main Street. The project will add positively to the goals of the City and to the University.

Marilyn Rasmussen asked how many single family homes are in the area.

Ryan Lerwill said the property is contiguous to 5 single family properties. There is a 6th property that is not contiguous.

Thaine Robinson asked their feelings on creating a privacy buffer fence.

Ryan Lerwill said the developer wants this project to be good for the students and for the community.

Chairman Dyer said 48 percent parking is being proposed. He asked if any kind of marketing study has been done.

Ryan Lerwill said they have discussed the issue with John Fister of the University Housing department. It was felt this percentage of parking would be adequate for this location due to its proximity to the University.

Chairman Dyer said the Commission recognizes that cost is an issue, but the Commission needs to make sure the proposed development is good for the community. He asked that the access be pointed out and that the easement be clarified.

Mr. Lerwill clarified the access and stated there is a deeded, recorded easement in place that allows them to have access on the Key Bank lot.

Val Christensen said the access has been reviewed by staff and by legal. It is accurate.

Chairman Dyer asked why the applicant is not doing a commercial component as part of this proposal, as the property is in the Mixed Use 2 zone. This zone was created to help have fewer cars and encourage pedestrian movement and emphasis; along with that was a commercial component so people would not have to drive to retail areas further away.

Ryan Lerwill stated the initial idea was to open the swimming pool to the public. The dream was to have the City take over management of the pool, but this idea never came to pass as the developer

did not give the City a proposal to review. The University has stated there should be no mix of student housing and attached commercial.

The University is still in discussion on this issue and has not come to a decision, so the applicants included the pool as part of the property and have come forward with this CUP request.

Phil Packer, representative of BYU-I in the audience, verified the matter is under discussion.

Scott Ferguson asked why the University has hesitancy with the vertical commercial and residential.

Phil Packer said it is the experience in Provo that is being looked to.

Ryan Lerwill said technically there really is a commercial component here, as it is a private pool but is being used commercially for the students.

Chairman Dyer said that is not the City's definition of commercial.

The **Chair** said the site plan looks very urban and asked for clarification on the green space.

Ryan Lerwill said they are limited with the existing structures. They are trying to vitalize the property and are willing to have green space where possible.

Chairman Dyer asked if they are willing to have the issue of repair of the pool building wall as a condition.

Ryan Lerwill said that would be fine. He stated they could take out some of parking at the front to increase the green space.

Scott Ferguson wondered about the top of the building for green space.

Ryan Lerwill said they felt that location would be potentially problematic.

He stated that the existing front door area will remain as the front entry.

Chairman Dyer asked about the 150 square foot minimum space per occupant and how that is being addressed.

Ryan Lerwill said the space will be bigger – 194 feet per student would be the average.

Dan Hanna asked what the ground is like currently in regard to the south wall of the swimming pool building.

Ryan Lerwill said the building is built right to the property line. There is not a green space or dirt space. He does not see it as being usable space.

The area could be closed off to eliminate pedestrian traffic.

Chairman Dyer asked if anyone in the audience had any clarification questions about this proposal. There were no questions.

The **Chairman** asked if there was any added clarification of the proposal from staff.

Val Christensen said staff will review landscape percentages.

Chairman Dyer opened the public input portion of the hearing. He noted that some written input has been received. The individuals can either let the letter stand so it is entered into the record to represent them, or they may give public testimony tonight. They can do one or the other but not both, as that would be an unfair advantage.

In Favor:

Trevor Einerson, 449 Partridge Lane. He is a real estate agent representing the sellers. He is in favor of this proposal. It is revitalization of downtown use. It would be improving on something that has been slowly decaying - someone is willing to make something much better of the structure.

The developer would fix safety hazards, and the project would be a very nice addition to the community. It is taking the directive of revitalizing the area.

Neutral: None

Opposed:

Mark Bates, 123 East 1st South. He lives south of the subject property. He has some concerns. He has lived there for 8 years. Bicycles cut through. He has found towels in his backyard. They have caught numerous college students playing games in their backyard, and he has caught numerous students making out on the trampoline after curfew. Where his neighbor Mr. Pickering lives, there is a chain; just last week he saw students going through that to access the property. The developer needs to block off these back areas. Chemicals and sand have also been dumped, along with garbage. There is an open space next to the Autumn Arbor Apartments that is used to access the property and Walgreen's. People biking or walking will go right through. A concern is snow and where it is pushed. It has been pushed against a neighbor's garage. He takes care of snow removal for this owner.

It is fantastic that the property will be fixed up, as long as certain areas are blocked off and there is adequate, attractive fencing.

Written Input:

Rob Wood of Rigby, Andrus, & Rigby, stated he had submitted a letter for the stated individuals. Some of the issues have been addressed tonight. He requested that the letter stand as representing them. He clarified for the Commission that the body of the letter is the clients' with Mr. Wood's introductory paragraph and salutatory closing.

Letter from the Law Offices of Rigby, Andrus & Rigby- representing John Prows, Roger Peterson, and Drury Pickering – neutral to the proposal, read by Chairman Dyer.

Law Offices

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May 16, 2012

Rexburg City Clerk
Blair D. Kay
Members of the Rexburg City Council
35 North 1st East
Rexburg, ID 83440

To the Members of the Rexburg City Council:

This firm is pleased to represent John Prows, Roger Peterson and Drewry Pickering in regards to the proposals made by Run Hard LLC in regards to the Pinnacle property. These property owners do not necessarily object to the project as a whole, but they do have some very serious concerns that they feel should be addressed. Below is a letter they wrote to me and asked me to submit to you in preparation for your meeting on the 17th of May, 2012.

1. We have no interest in purchasing the Pinnacle Property. The objections below are strictly based on our desire to occupy our respective residences to the South of the Pinnacle building and property for our retirement residences.
2. We have no problem with Run Hard LLC or another party buying the property and using it for another use so long as the following issues are addressed

Issues that must be addressed by the new owner:

A. Private Residential Property Protection/Respect - With the proposed use of the Pinnacle property for single student housing the new owners need to ensure us (their residential neighbors) that their proposed use of the property will be done in such a way that our property will be protected against damage or abuse. Our desire is for the new owners to install an 8 foot tall privacy/security fence (wood or stone/concrete not chain link) between the Pinnacle property and our properties. We have had numerous problems with students / employees of Pinnacle repeatedly cutting through and trespassing on our properties, tearing down our fences, jumping in our trampoline,

playing in our treehouses, eating on our lawn, throwing trash on our lawns/gardens, blocking our driveways, parking in our driveways, crushing bushes and flowers with their automobiles, and failing to show proper respect for our private residences and private property. This will only get worse without a privacy/security fence between our properties and new proposed high density student housing

B. Safety/Environmental Impact of the Existing Swimming Pool Enclosure - We need know what the planned disposition is of the existing Olympic indoor swimming pool facility is. The building that houses this swimming pool has a bowed cinder block East wall. The cinder blocks are spalling badly and the roof is bowed. Our concern is that this east wall could topple over. Pinnacle Security was seeking permission to cross my property to make repairs to this building but they stopped any planned repair plans and have done no repairs at all. This building is in bad shape and have filter sand and chemicals that have been dumped behind it.

C. Parking Congestion On and Off Street - The proposed off street parking density of 48% is much too high and should be no more than 25%. What has not been taken into account in this proposed 48% figure are the following things that I have personally observed with the existing limited Pinnacle Security parking in the front of this building :

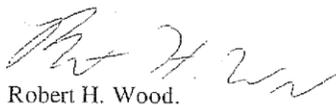
1. The proposed square parking areas become terribly congested
2. Visitor parking has not been considered for the 104 students
3. Snow removal impact of piling snow one side of the parking lot has not been considered.

This parking will only get worse if 104 students vs. 30 or so Pinnacle employees are accessing this building.

Thanks for your consideration and help. Failure to address these items will result in further legal action on our part to get them addressed prior to plans being approved for the go ahead of this proposed use of this building.

Should you have any questions or concerns, please do not hesitate to give me a call.

Best Regards,


Robert H. Wood.

Rebuttal:

Ryan Lerwill appreciates the comments from the neighbors. It is the applicants' intent to enhance the neighborhood. He feels there may be a significant difference between BYU-Idaho students who live under University regulations, and any employees of the current business at the location. The change of ownership and tenancy may improve the situation. Snow removal will be addressed. They have no problem with fencing the property but he has a little bit of an issue of it being the burden completely of the developer. Regarding the Walgreen's access, there is a pedestrian path going into Autumn Arbor Apartments. Trevor Einerson who spoke in favor of this proposal formerly lived there and used the access to go to Mill Hollow. The developers want to utilize the open access to the commercial area mainly to the north. They want the development to be an asset for the community.

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

Val Christensen said this proposal involves an existing building. The developer must remove parking in the front yard setback. Staff recommends that they not only remove enough asphalt for the 10-foot landscape strip but enough to reach the 10% landscape requirement. There is some concern about snow storage in the back.

City staff has clarified to the applicant that the City is interested in maintaining any through access that is possible near Autumn Arbor. The City would like to see access through to the County parking lot - this issue would need to be explored. 52 parking spaces are in the back lot and 15 spaces are in front. Staff will make sure the project will have the required number of handicapped spaces.

Marilyn Rasmussen said the County and Walgreen's own the subject parking lot. They share a big section for snow removal.

Chairman Dyer stated the question before the Commission is shall a CUP be issued to allow reduction in parking spaces from 100 percent required parking to 48 percent, and to allow zero percent commercial for this property in the Mixed Use 2 Zone.

Scott Ferguson said given the limitations of the existing building which was built very close to the property line, he feels this proposal works well for the property. He thought the access issue to the parking lots on the northeast could be a condition. He also suggested fencing for the property should be a condition. This project is the best use the building has had in a long time.

Dan Hanna suggested a proposed condition should address the need for a fence of sufficient height and material as determined by staff, to restrict pedestrian traffic across private property and promote privacy and specifically at the southeast corner of the property. Mr. Ferguson agreed.

Thaine Robinson felt a privacy fence should border all the residential area. This property has had a land use change. The density of people living in the area will be greatly increased. The burden of the buffer has always been on the developer when the Commission has seen similar proposals.

Scott Ferguson was excused from the meeting.

Val Christensen said it is not the City's intent that the parking lot access issue be an absolute, but it definitely needs to be explored.

Dan Hanna and the **Chair** suggested the wording of a condition could say to encourage and facilitate the access.

The zero percent commercial concept was discussed.

Cory Sorensen said the City is all for Mixed Use. The University is not on the same page, but they are talking about the issue; they may need more time to determine what their policy will be. We do not want to see all 3 blocks of Mixed Use becoming residential, because that would create a wall between the University and the community. He suggested there should be work meetings with the University, as issue needs to be addressed sooner than later.

Thaine Robinson agreed with Mr. Sorensen. He also felt if the City allows zero commercial for a project, the developer needs to give back to the City for the community. Give back in landscaping, parking, or some other way.

Chairman Dyer said that is the whole idea behind the PEZ area- the developments should be an asset to the community. Just a blanket write-off without some counterbalancing in assets would not be serving the community.

Cory Sorensen suggested a proposed condition could address that the developer work with the University on the issue of commercial.

Stephen Zollinger stated a proposed condition of approval could address the issue of commercial for the project.

Dan Hanna motioned to recommend approval to City Council to grant a Conditional Use Permit for the property located at 51 South 1st East, to allow zero percent commercial in Mixed Use 2 and to take advantage of a lowered number of parking spaces from 100 percent required parking to 48 percent through the use of the Pedestrian Emphasis Zone (PEZ) Ordinance No. 1021, to include the 6 proposed conditions of approval stated by staff in the Community Development Department staff report, and 6 additional proposed conditions (#7 - #12 stated below) for a total of 12 proposed conditions. **Cory Sorensen** seconded the motion.

None opposed. **Motion carried.**

12 00137 CUP – Run Hard LLC

Proposed Conditions of Approval

1. The parking lot adjacent to 1st East Street shall have the asphalt removed for a ten foot wide landscape strip. A ten foot landscaping buffer should be installed between the front property line (right-of-way) and the existing parking lot adjacent to 1st West Street. The 10 foot landscape strip shall be delineated from parking areas by high-back curbing. It should have trees and bushes to provide a buffer.
2. To encourage alternative travel options, i.e. bicycling, bike racks and hard surface must be provided at 10% of beds. Location of racks needs to be on hard surface and shown on revised site plan.
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. Sidewalk and pathway maintenance to be performed as per the PEZ Ordinance.
5. Parking Contracts to be approved by the City Attorney.
6. Requirements of the PEZ Ordinance No.1021 to be applied to this project. Including but not limited to wider sidewalks.
7. Repair exterior walls as required, to be approved by City staff.
8. There shall be a fence of sufficient height and material where appropriate as determined by City staff, to restrict pedestrian traffic across private property and promote privacy, and specifically on the south and east property lines there should be a privacy fence.

9. There shall be a snow removal plan to be approved by staff that will require removal of snow from the premises as dictated by weather conditions.
10. There shall be sufficient amenities to enhance pedestrian traffic, including benches and bicycle stands for visitors where appropriate as determined by staff.
11. Encourage and facilitate pedestrian access from the proposed development to the commercial areas subject to cooperation with private property owners.
12. Encourage exploration of retail/commercial opportunities on the property.

Richie Webb rejoined the Commissioners on the dais.

Break called.

2. 7:20 pm – Conditional Use Permit – Approximately 149 South 1st West – to allow less than 10 percent commercial use in Mixed Use 2 (MU2) and to take advantage of a lowered number of parking spaces through the use of the Pedestrian Emphasis Zone (PEZ) Ordinance No. 1021.

Cory Sorensen recused himself due to direct conflict of interest. He is presenting this proposal.

Cory Sorensen, 154 South 3rd West, representing Tru North Development LLC. They have been working on the project for about twelve years. This year they have been able to acquire all but 2 of the properties included in the proposal. Affidavits of Legal Interest documents for those 2 properties are part of this application. The subject properties for the project include everything on that block that is west of Sunrise Village Apartments, which borders the project on the east boundary. They could possibly have connectivity of pedestrian access with this complex. Two homes across the street to the west are owner-occupied. The other homes are being rented

The applicants have had numerous conversations with City staff. Slides of the proposed project were shown on the overhead screen.

Mr. Sorensen said they are requesting decreased parking through use of the PEZ Ordinance and are also asking for less than 10 percent commercial. They are unsure at this point what that percentage would be. They want to have a commercial component and are working closely with the University. If they are able to do commercial, the number of beds drop and the parking ratio would change. The proposal is for 1,078 beds, in 4 buildings. Originally, the plan was to have underground parking, but it would have been twice the cost of a parking structure. Their project plans now include an open parking structure that has an internal ramp and a level of underground parking. The 6-story parking structure will be hidden behind the residential buildings. The building material of the structure will be concrete. Visitor parking would most likely be on its main level.

They will be providing more than the required 10-foot setback. They have buffered the parking garage with the residential structures; it is visible only from interior building side.

Visually, an entire block of 5-story buildings is uninviting, so these apartments will have interior and on-street entrances, which are more pedestrian friendly. These entrances would have a covered porch area and landscaping or planters, make the buildings a lot more appealing from street and for passing pedestrians. There will be landscaping all around the property.

A full-size basketball facility is planned in the multifunctional building to the east. There will be nice walkability through the interior to the parking area.

The neighbors to the west, Hemming Village, have done an amazing job on their projects and on their street frontage – diagonal parking, benches trees, and bulb-outs.

This project would have diagonal street parking (57 spaces) and bulb-outs surrounding the complex. It would continue the feel of Hemming Village.

Mr. Sorensen said the main focus for retail/commercial on the main floor would be the property on the southwest corner.

The site plan shows 44 percent parking; if they are able to have retail/commercial, their plan would be for 46 percent parking.

They continue to work with the University on the issue and are waiting for a decision on what the University would allow.

This project would be very positive for the area.

Chairman Dyer asked if they would be willing to push the snow out of the bulb-outs so the City could take it from there.

Cory Sorensen stated they would be willing to do so.

Richie Webb said he assumes the upper level of the parking structure is open.

Cory Sorensen said that was correct.

Mr. Webb asked how the structure will be lighted.

Ken Harris, project architect, 3520 North University Ave, Provo, Utah. The lighting will be sensitive to the neighbors. It will be aimed into the center part of the structure and away from neighboring properties.

Dan Hanna asked how snow would be removed from the top level of the parking structure.

Ken Harris said the top level is covered. The top of the structure will get some snow, which would be pushed over the side, collected, and hauled away.

Richie Webb asked the size of the units.

Cory Sorensen said there will be 6 and 8 bed units.

The square foot per person would be about 200 square feet.

The multipurpose building could be for ward use.

Richie Webb asked if they would allow outside-the- University usage.

Cory Sorensen said they would be willing to do so for the community.

Richie Webb said if commercial on the corner of 2nd South is not worked out with the University, how committed are they to do commercial if they cannot do over/under residential with commercial. Could they change the building – cutting it up, setting it back, and making a one-story building to have the commercial?

Cory Sorensen said they would want to move forward on the project. They would likely change the building and make it L-shaped. They would lose beds, but they feel it would be good.

It is a great site for student housing and reduced parking with everything within a block. This area begs for commercial.

Ken Harris said that on the ground floor footprint of the building the commercial is about 12%.

Chairman Dyer asked for review of the pedestrian amenities.

Cory Sorensen said there would be pavilions, BBQ grills and fire pits, wide sidewalks, entrances to each ground floor unit, landscaping, benches or flower boxes, and street lamps that would be part of the project but would follow City standards. The area will invite people to walk.

Chairman Dyer asked how infrastructure was addressed in their conversations with the City Engineer.

Cory Sorensen said they were told the City has the ability to handle this project with the current infrastructure. If the whole block were developed it would be different. The development will have huge impact fees.

The Chair said no review comments from the City Engineer on this issue have been included with the application information.

Val Christensen stated the City Engineer John Millar has been away. In the past Mr. Millar had said he saw no problem with the complex. However, the infrastructure could not continue as it is if the whole block were to develop. The Engineering staff is working hard to solve the problem for the future.

Chairman Dyer asked if the City was handling the issue based on a revenue stream from impact fees or will there be some specific requirements for developers for infrastructure improvements. Would there need to be a condition addressing this issue?

Val Christensen said he understood that the impact fees would generate what is necessary to upsize.

Stephen Zollinger said the City recently received a grant from the Department of Environmental Quality (DEQ) for a water study. The City Engineer anticipates the City will be matching it with a sewer study to review exactly what needs to be done and where low-capacity areas are. Infrastructure regarding this project is not a concern but if developments such this one continue in that area, there would be concern.

Chairman Dyer asked if any members of the audience had clarification questions about this proposal.

Mr. Kennington asked if the Nethercotts are involved in this project, as their name still shows according to computer information he has seen.

Cory Sorensen said the Nethercotts sold the land to them. Tru North Development owns all the subject properties other than the two properties mentioned earlier.

Virginia Pratt said 1st West has been a pedestrian nightmare with the Hemming project that is being built. Yesterday was a mess. One could not get down the street. What do they have in mind for this project in regard to this issue?

Stephen Zollinger said as of today, the Hemming project will be managing their pedestrian traffic in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). The applicants of the subject project, if approved, have been told that they will be required to submit a written pedestrian management plan. It is anticipated that by the time the subject project begins, pedestrian traffic could be shifted to the west side of the street. It is acknowledged that the City failed to manage the Hemming project pedestrian matter effectively; the City will do better in the future.

Chairman Dyer asked if staff had any information to help the Commission better understand the proposal.

Val Christensen clarified that his review was done totally at a zero percent commercial (Plan A) and not on the plan addressed tonight (Plan B) that includes consideration of commercial.

Chairman Dyer opened the public input portion of the hearing.

In Favor:

Ryan Lerwill, 1216 Stocks Ave. He has watched this project grow, conform, and adapt with the community's changes. It will be a tremendous asset to that area of the community. It is filling the need of the University. It is a perfect example of the PEZ overlay. It is a gigantic step forward for the City of Rexburg and will show what is trying to be accomplished. It will attract other investors and businesses. He supports this project.

Neutral: None

Opposed: None

Written Input: None

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

Val Christensen gave a brief history of the area. The Commission has looked at this same area a couple of times. There was a zone change and a CUP on property in this block that actually created an island. There was lots of heartache and misgivings at the P&Z level.

Now, this proposal has brought everything together and is exactly what staff and P&Z had hoped for.

It is understood that this is a MU2 zone; the applicant is hoping for some commercial.

The University is a player on this issue; he does not know where it is going and he cannot speak to that. He can speak to the fact that when he first saw the subject project, the buildings were out at the right of way, they did not have the ground floor street entrances, and they had underground parking. They at one time showed the parking structure up against 1st South. Through continued discussion with the City staff, the applicants have brought in different alternatives per City staff request. They have been great to work with. City staff is very happy with this progression.

Mr. Christensen went over his staff report. He reiterated that there was no review of Plan B that includes a commercial component. Review was done on zero percent commercial (Plan A).

Parking would be reduced to 33 percent tenant parking and 10 percent visitor parking.

Dan Hanna suggested that in the future developers give the percentage of tenant parking without including the visitor parking, which has to be there. It creates a false impression.

Richie Webb asked if there was discussion at the City level on road capacity and any concern about traffic.

Val Christensen said the matter was discussed. It was felt with the 99-foot right-of-way there was enough room to have center turn lanes.

The Plan B presented tonight showing diagonal parking was not part of this discussion.

Richie Webb said if there were things about Plan B that the Commission likes, could that be addressed in the conditions although the plan has not been reviewed by staff. He feels Plan B is a much better plan than Plan A. He would advocate for some commercial as in the newly presented Plan B.

The **City Attorney** indicated that the Commission could discuss and address issues they see that they feel would help mitigate impacts or improve the overall benefit to the community.

Chairman Dyer said the question before the Commission is shall a Conditional Use Permit be issued for the subject property to allow less than 10 percent commercial in MU2 and to allow less parking spaces through use of the Pedestrian Emphasis Zone Ordinance be granted. This proposal is what they have envisioned for the community. It is on the scale that they wished for, where there would be major redevelopment. It would be a great asset to the community.

Possible proposed conditions were discussed.

Richie Webb said the Commission needs to do more than encourage commercial for this project. This project screams for commercial on the subject corner. It is the right thing to do. It may not be the most financially smart thing to do, but it is the right thing to do in terms of the project, the area, and the students. Perhaps a minimum percent could be stipulated.

There was discussion of how a commercial component should be addressed and of how to formulate a condition as there is a third party, the University.

The **Chair** asked the City Attorney if there is a conditional use and the developer runs into circumstances beyond their control and cannot meet or has difficulty meeting a condition, could the developer come back later to address the issue.

Stephen Zollinger said the applicant can always come back. The University has had the willingness to sit down and have the conversation. Their rationale for disallowing stacked commercial and residential is very significant to them and is going to require additional conversation.

Mr. Zollinger stated the Commission needs to make the decision independent of their concern that the University may impose additional restrictions on this project. Do what the Commission thinks is the right thing to do. If the developer cannot accomplish what they are being asked to do through creative design or through a change in policy at the University, the developer can come back and enumerate those concerns to seek to have that portion of the project modified.

Dan Hanna motioned to recommend approval to City Council to grant a Conditional Use Permit for the property located at approximately 149 South 1st West, to allow less than 10 percent commercial use in Mixed Use 2 and to take advantage of a lowered number of parking spaces through use of the PEZ Ordinance No. 1021, to include the 6 proposed conditions of approval stated by staff in the Community Development Department staff report, and changing the wording of proposed condition # 6 to state *8-foot wide sidewalks*, and 10 additional conditions (#7 - #16 as stated below) for a total of 16 proposed conditions. The proposed conditions of approval are subject to approval by City staff.

Richie Webb seconded the motion.

There was discussion.

The motion was officially amended to state that the commercial space should be a minimum of 10 percent of the buildings footprint.

None opposed. **Motion carried.**

12 00186 CUP – Tru North Development, LLC

Proposed Conditions of Approval – Subject to Approval by City Staff

1. Steps or part of a structure are not allowed in the public right-of-way.

2. To encourage alternative travel options, i.e. bicycling, bike racks and hard surface must be provided at 10% of beds. Location of racks needs to be on hard surface and shown on revised site plan.
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. Sidewalk and pathway maintenance to be performed as per the PEZ Ordinance.
5. Parking Contracts to be approved by the City Attorney.
6. Requirements of the PEZ Ordinance No. 1021 to be applied to this project. Including but not limited to ~~wider sidewalks~~ *8-foot wide sidewalks*.
7. Snow removal from street parking shall be done in cooperation with the City.
8. Incorporate the use of street lamps, flower planters, benches and other features to enhance pedestrian activity.
9. Maintain sufficient snow storage and remove snow as per weather conditions.
10. Developer to acquire ownership of all properties.
11. Work with City staff to facilitate pedestrian traffic during construction phase.
12. Construct a minimum of 10 percent of the buildings footprint for commercial space.
13. Provide pedestrian access to adjoining properties subject to property owner cooperation/approval.
14. City Staff to review Plan B (presented at 5.17.12 P&Z meeting) and adopt appropriate modifications.
15. Allow for reduced tenant parking not to be less than 33% and 10% visitor parking.
16. If any of these conditions as stipulated cannot be met, the developer may appeal to City staff and the P&Z Commission.

Cory Sorensen rejoined the Commission on the dais.

3. 7:40 pm – Conditional Use Permit – Approximately 900 South 5th West - to allow structures with twenty-four (24) units per building.

Kurt Roland, Eagle Rock Engineering, 310 North 2nd East, representing Kartchner Homes. They are requesting a Conditional Use Permit to allow them to have seventeen 24-plexes on the subject property, which was pointed out on the overhead screen. The size of the property is 20 acres. They will be putting in a right-of way from Tamana Fields up to the corner of their project and going to 5th West.

Thaine Robinson asked if it would be possible for the road to go to Henry's Fork Plaza to the west.

Kurt Roland said it would not handle the traffic.

Val Christensen said the City Engineer spoke against that.

Dan Hanna said typically connectivity is encouraged.

Val Christensen said he had a discussion with City Engineer John Miller and suggested that it be opened up to connect to the Henry's Fork Plaza. Mr. Millar's concern was that it was private property. To open up and run what might end up being more like a City road back through private property – the City Engineer was not willing to go there.

Chairman Dyer said notwithstanding that the Commission foresaw this and made it a requirement to have the capability.

Val Christensen said to have more commercial behind the commercial that was there was the way the City Engineer had viewed that area.

The **Chairman** said in other words, if the development were commercial the road might work but if it is residential it is too much traffic on too narrow a road.

Dan Hanna asked if staff had looked at the traffic patterns and flows based on this project and how it fits in with the other properties in the area, and connectivity.

Val Christensen said the developer will be required to do a traffic study for the project. Staff has only looked at connectivity from University Blvd. to 5th West.

Dan Hanna felt that when a future development is made to the south, at that time there should be a road connection to South Yellowstone. We cannot landlock and cannot limit our traffic flows.

Cory Sorensen said the area of businesses in that neighborhood has struggled. It would make sense to have the ability to drive to those shops instead of going around the whole area. It is something that needs to be looked at closely.

Kurt Roland said the road will come up from Tamana Fields on the south. He pointed out on the projected map where stubs would be located.

Stephen Zollinger said this application is a request to have larger buildings. It has nothing to do with the layout, and it has nothing to do with density. What the Commission is being asked to consider is: is there anything about 24-plexes at this particular location in the City they believe warrants a conditional use.

Chairman Dyer said point ceded. However, the overall plan is going to create enough of an impact that there are some concerns about transportation and connectivity that will come to bear at some point. The Commission may not want to approve 24-unit buildings with that kind of layout, or there may be another Henry's Fork Plaza on their hands.

Stephen Zollinger said it is putting the cart before the horse. The 24-plexes would need approval as they relate to this general neighborhood. The plat would follow.

Troy Kartchner, 601 West 1700 South, Logan UT. He realizes the plat is not part of this request, but they are asking for preliminary plat approval tonight right after this CUP request.

He pointed out on the overhead screen the road that connects over into Tamana Fields. He feels a road connecting to Henry's Fork Plazas is a good idea. They discussed accessing it but these are not traffic roads; they are parking lots.

Chairman Dyer said when that subdivision was approved, the Commission talked about the need to get traffic through that area and not have parking lots there.

Mr. Kartchner said they wish there was a road there. They have created an access on 5th West. Their main access would be off of what will be a road at the south boundary of the subject property. The property was just rezoned to Medium Density Residential 2, which would allow them to have five 4-plexes per acre, and asphalt. He feels the City's goal is to have complexes that are more attractive, with more open space, that would keep their value long term. It is better for the community, better for the citizens living in the area, and better for the City long term.

They have created this with these 24-plexes and have maximized their green space. They have tried to put most of the parking back behind the buildings. There will be park areas and a clubhouse. The exterior of the buildings would be rock stucco, and Hardy board.

Their goal has been this size of building. They feel it is more attractive and will allow for a greater amount of green space for their project. They will exceed the parking requirements for the complex. They would hope they could obtain a Conditional Use Permit.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

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

Val Christensen said the request meets the requirements of the Comprehensive Plan and the Development Code. The question is, should 24-plexes be allowed on this property? Density stays the same. Staff does not think that larger buildings would be out of place in the subject area.

A Conditional Use Permit is required in order to have buildings with more than 4 units in the Medium Density Residential 2 zone.

Chairman Dyer said the staff report does not stipulate any proposed conditions.

Val Christensen said the developer would need to meet all standard requirements for a CUP per the Development Code and City approval.

Thaine Robinson motioned to recommend approval to City Council to grant a Conditional Use Permit for the property located at approximately 900 South 5th West to allow structures with twenty-four units per building. **Dan Hanna** seconded the motion.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business:

1. Preliminary Plat – The Dunes Apartments - Approximately 900 South 5th West

Kurt Roland, Eagle Rock Engineering, representing Kartchner Homes. This is a 20 acre piece of land. They want to build seventeen 24-plexes and a club house for married housing. There will be 26 percent landscaping on the project. There will be two park areas. They dug down 14 feet, and there is no lava rock. They will be widening 5th West along the frontage of the property and will put in a 68 foot wide right-of-way on the south end of property and a 68 foot wide right-of-way hooking on to Tamana Fields' Mikan Drive.

Water and sewer will come up through Mikan Drive.

Landscape strips, sidewalk, and curb and gutter will be completed as per requirements.

He clarified this is a 1-lot plat owned by one owner.

Chairman Dyer said the plan is not showing any interconnection to the north. Is that because at present those properties are not requiring any access?

Kurt Roland said that was correct.

Kartchner Homes also owns the property to the south of the project.

Chairman Dyer said a street that is shown to the west does not quite match up to the southerly line.

Troy Kartchner said they are stubbing a road to the west. It is an actual road and not a parking lot. Depending on what future development is done, the road can be curved one way or the other.

Chairman Dyer said the Commission likes to make sure it is advantageous to the City, and now is the time to do it.

Val Christensen asked if the Commissioners are concerned about a road to the west.

Chairman Dyer said the Commission is concerned about the road and with connectivity from the west.

Mr. Christensen said the developer is dedicating the road to the City, so the City can dictate what goes there.

There was Commission discussion on this road issue. The concerns were that the road did not line up very well at all with the property to the West, and the road might be moved further south to accomplish this.

Dan Hanna asked if snow would be pushed off the roads and across the grass, and removed if necessary.

Kurt Roland said this would be done.

The project will have a waterfall feature, playground equipment, and BBQ areas for the residents. There will be three ingress/egress accesses to the development.

Chairman Dyer said there are concerns the Commission has that need to be addressed. They want to make sure that it is good for the community.

Dan Hanna asked if there would be a landscape buffer from Henry's Fork Plaza on the west.

Kurt Roland said there would be 3-foot landscape buffer.

Dan Hanna wondered about a sidewalk in this area.

Troy Kartchner said they could put sidewalks there. They do not know what the land to the west of the southwest corner of their project will become.

Dan Hanna said he realizes this development would be abutting some vacant lots and private owners.

Val Christensen said his review of the plat shows an 8-unit discrepancy. 408 units are shown on the plat. The maximum units that could be on the 20 acres would be 400 units.

Kurt Roland said when the road right-of-ways are included there are actually 23 acres.

Chairmen Dyer said the road right-of-ways have not been excluded in the past.

Stephen Zollinger said the road right-of-way is excluded. They only get to count land upon which they can build. Once they plat it, it is the platted lot acreage that counts toward their acreage. If this preliminary plat plats out as 20 usable acres, then they can only have 400 units. They are limited to whatever their platted acreage is.

The applicant could look at Planned Unit Development (PUD) density bonuses.

A PUD would require public hearing.

Chairman Dyer said the Commission wished to address possibly having the developer move the planned road on the south to the south slightly, about 60 feet. That would also enable them to get their density.

Stephen Zollinger said with all due respect, the Commission cannot address moving a road to the south because it takes it outside of the plat. Discuss what the applicant has put before them. If the Commission does not like the fact that they have a road there, the Commission can ask that they do away with it.

Chairman Dyer said the Commission would like the road moved to the south.

Stephen Zollinger asked if it would be in the platted area.

The **Chairman** said it is not, but this is a preliminary plat so the developer could change the platted area.

Mr. Zollinger said the Commission has to assume this developer does not own any of the property outside of the plat. They are limited to the presented plat. The Commission does not design roads. The City Engineer has said he wants the road where it is at. Consider the plat as it is presented. Move forward. If the Commission does not like the plat, recommend denial and send it to City Council. The road is not going to move to the south to accommodate the property owner to the southwest. The City Engineer has decided that would not be in the City's best interest.

Dan Hanna said staff review comments from the City Engineer were not included in the P&Z information packets.

Stephen Zollinger said he is troubled - the Commission should not have private deliberations. Second, he is troubled by the aspect that they are looking out for a property owner who is not part of this application process other than how it will affect traffic flow.

Chairman Dyer said the Commission was not looking at the adjacent property owner. They were looking at the City's interest in transportation and circulation and getting roads that line up.

Stephen Zollinger stated the Commission cannot design outside of the plat.

Limit the decision to the application. The City Engineering staff addresses the traffic management. The question to consider is, does this function as designed to serve the purpose the developer is requesting?

The Commission is asking the applicant to consider something completely outside the purview of the plat they have been given.

The road cannot be moved out of the plat. Roads within the plat could be moved. There is a City road running down the south boundary of this plat. The City Engineer has said the City does not want the road to go straight through to South Yellowstone for a myriad of reasons. Their recommendation could be for the City Engineer to take a look at whether the road with a 15-foot shift creates an issue.

Chairman Dyer said the Commission was going to state to the applicant the issues that they have with this plat.

Mr. Zollinger said the Commission is restricted in their deliberation to the square that is in front of them. They are not supposed to design roads; they are supposed to design concepts.

Make a recommendation, limit themselves to the application in front of them, and move the process along.

Chairman Dyer said the Commission would like to be allowed to do its charge: to plan for the community.

Stephen Zollinger said the Commission should do what it is charged with. The City's Engineering staff has the responsibility of making sure that the roads function properly as far as traffic management goes.

Chairman Dyer said this Commission is charged with making sure there is connectivity and that whatever development is done will be congruent with future development.

Stephen Zollinger said the issue the Commission should address is, does this plat function as it is designed, to serve the purposes the applicants have requested it be looked at for: 24- unit buildings on 20 acres of land. Is one road going to be the appropriate road to service those units?

Chairman Dyer said the Commission always talks about connectivity and suggests where roads need to go for every subdivision.

Stephen Zollinger said the Commission is looking outside the subdivision. Never has the Commission been allowed to take a road and require the applicant to move it to a different parcel other than the one they are trying to plat.

Troy Kartchner said they need to pick up .4 acres for the 8 units.
There was discussion that they may have this room for the 8 units.

The **Chair** suggested a motion to table.

Mr. Zollinger said the developers know what they want to do. There are things they can ask for that we cannot ask for.

There was more discussion.

Dan Hanna motioned to recommend approval to City Council of the Preliminary Plat for The Dunes Apartments located at approximately 900 South 5th West, subject to additional pedestrian access at Henry's Fork Plaza, and to meet density as specified.

There was no second.

Motion died.

Dan Hanna motioned to recommend approval to City Council of the Preliminary Plat for The Dunes Apartments located at approximately 900 South 5th West, subject to sufficient acreage for 408 units, sidewalk connectivity to the west (Henry's Fork Plaza), and sidewalks and fire hydrants as required. **Richie Webb** seconded the motion.

Cory Sorensen said he loves this plan. He wanted to go on record that he is frustrated with the proceedings tonight. Yes there is an engineer on staff, but to say the engineer is right every time is not right.

Cory Sorensen felt belittled. The Commission is here for a reason, and it is to plan for the community. Several of the Commissioners indicated they agreed with Mr. Sorensen's feelings and stated position.

None opposed. **Motion carried.**

Compliance: None

Non controversial Items Added to the Agenda:

At the May 3, 2012, P&Z meeting a letter to the Commissioners from the Woolfs of 50 North 3rd West regarding a possible large future development was discussed. Val Christensen is in the process of writing a letter to the Woolfs addressing their concerns.

Report on Projects: None

Tabled Requests:

1. Conditional Use Permit - Adams Elementary School, 110 North 2nd East – to keep a portable classroom
2. Conditional Use Permit - Madison Middle School, 575 West 7th South – to keep two portable classrooms

Chairman Dyer stated the school district representatives are planning to present their information at the next meeting. He has let them know what information the Commission would like. The information should be given to the Commissioners in advance of the meeting.

Building Permit Application Report: None

Heads Up:

June 7 – 6:00 pm –Joint City Council and P&Z Commission planning meeting

June 7 – CUP – Approximately 1150 North 9th East – to allow a Home Business – cabinet shop

The property is in the City's impact area, so the P&Z Commission recommendation will be to the Madison County Commissioners rather than the City Council.

June 7 – 2 School District CUPs currently tabled

Chairman Dyer adjourned the meeting at 12:21 am.