

February 5, 2013

7:05 p.m.

Planning Division  
Council Chambers

**MEMBERS PRESENT:** Commissioners Natalie Black, Doug Branson, Jake Cordova, Donna Cosgrove, Brent Dixon, David Hodder, Kurt Karst, George Morrison, Leslie Polson, and George Swaney

**MEMBERS ABSENT:** Dee Whittier and Margaret Wimborne.

**ALSO PRESENT:** Planning Director Renée Magee, Assistant Director Brad Cramer, Recording Secretary Debra Petty, and 25 interested citizens.

**CALL TO ORDER:** Chair Cosgrove called the meeting to order at 7:05 p.m. and reviewed the meeting process for the public.

**MODIFICATION TO THE AGENDA:** Dixon moved to recess the Annexation Prior to Platting and Initial Zoning of 35.414 Acres to Monday, March 5, 2013, Council Chambers, 680 Park Avenue at 7:00 P.M. Motion seconded by Polson and passed.

**MINUTES:** Commissioner Cordova moved to approve the minutes of January 8, 2013, with corrections. Motion seconded by Commissioner Polson and passed.

**PUBLIC HEARINGS:**

**Planned Unit Development for a Physical Therapy Business, Lot 3, Block 7, Channing Way, Division No. 3, 1<sup>st</sup> Amended.** Cramer presented the staff report, a part of the record. The applicant is requesting a planned unit development for a 3,000 square foot physical therapy clinic on Valencia Drive. Cramer said the building is single-story construction of similar architecture and materials as the adjacent buildings. The majority of the area has developed as medical and professional offices. Since the applicant wants to install windows on the north side of the building, the building will have to be moved to the south five feet to comply with the building code. The site plan will be modified to reflect this shift prior to City Council. Staff found the site plan meets all the requirements for a planned unit development.

Chair Cosgrove opened the hearing to public comment.

**Stephanie Liddle, 2229 Cortez, Idaho Falls, ID.** Ms. Liddle said her physical therapy business has outgrown the current 1,650 square foot building. She found an available lot and had building plans drawn to assure it fits the lot and meets her clinical needs prior to purchasing the lot. She said there is continued discussion about the internal layout and options for natural lighting.

Chair Cosgrove closed the hearing to public comment.

Dixon believes the application is straightforward. **Dixon moved to recommend to the Mayor and City Council approval of the planned unit development for Lot 3, Block 7, Channing Way, Division No. 3, 1<sup>st</sup> Amended, as presented. Motion seconded by Morrison and passed.**

**Rezone from RSC-1 to R-3A with PUD, a PUD and Final Plat for Parkwood Addition No. 6:** Cramer presented the staff report, a part of the record. The commission denied the application last month due to insufficient common space. The applicant requested an interpretation of common area by the city attorney and has resubmitted the application for reconsideration by the commission. The request is for forty-four townhouses and a two-lot final plat. He said the site is located generally at the northeast corner of St. Clair Avenue and John Adams Parkway. Cramer said the main change to the site plan from last month is the addition of a sidewalk leading from phase one to phase two as requested by the commission. Cramer explained the PUD ordinance requires twenty percent "common open space." The staff and commission have not counted the areas within the building setbacks as common area. However, the zoning ordinance defines common area as that portion of the PUD held in common ownership with the exception of roads, driveways, sidewalks or enclosed buildings or structures. Legal counsel stated any land held in common ownership is to be considered within the twenty percent common open space. In response to Morrison, Cramer replied there is no explicit language stating setbacks do not count as common area.

Cramer compared the site plan submitted in January with the plan under consideration. By including the setbacks as common area, the applicant has thirty-eight percent common area. Swaney noted the site plan still reflects the parking area in the southwest corner; the parking aisle should not be counted as common area until addressed by the applicant. Cramer explained a temporary Certificate of Occupancy may be issued until the developer is able to complete the landscaping late in the spring. Dixon asked staff for clarification on placing a condition to withhold building permits until the applicant complies by removing the asphalt in phase 1. Cramer replied a permit is not required for the removal of asphalt for the additional landscaping. The first permit needed by the applicant is for foundations. A note in the permitting system will prevent the building department from issuing permits until staff confirms any requirement is completed. Staff can initiate legal action if the applicant does not comply.

Cramer confirmed for Cosgrove the final plat includes Lot 3 and Lot 2. Lot 2 is the carwash. He said the rezone is from RSC-1 to R-3A with a PUD overlay. The plat covers phase two of the PUD and includes the car wash. Three of the residential buildings will face the commercial development to the east and will be impacted by the white lighting on tall poles, the rear loading area, and extended hours of operation. A solid fence and landscaping are proposed on the east property line to buffer the units. He said a condition can be placed for additional landscaping. Morrison confirmed staff agrees with the rezone but, if it is approved, the zone boundary for the carwash will be reduced to twenty feet. He said the carwash building becomes non-conforming and it will impact future expansion by the owner.

**Dennis Hourany, 168 US Hwy 89, Alpine, Wyoming.** Mr. Hourany believes the project will make a contribution to the community by developing a difficult site. It will provide attractive, affordable housing and local jobs. He said a six foot vinyl privacy fence will surround the entire site except near the carwash. The owner of the carwash requested a six foot cement block fence as he was concerned his patrons may damage the vinyl fence. The developer will maintain the cement block fence. Mr. Hourany said the issue with the asphalt existed when they purchased the property. Staff was provided a letter confirming compliance with the requirement and a bond could be posted to assure completion.

**Blake Jolley, 985 N Capital Avenue, Idaho Falls.** Mr. Jolley represents the applicant. He said the proposed vinyl fence will tie into that of Fenway Park.

Chair Cosgrove closed the hearing to public comment.

Dixon understands the removal of asphalt in the southwest corner for additional green space is a requirement of phase one. Removal of the parking lot provides no additional benefit for residents. It is a better as visitor parking. Karst said the open space is of value to those living in the vicinity of the development. Cramer assured Morrison the lots being rezoned have adequate public space when the both phases are considered as one PUD. Karst said, after considering it, he concurs with Dixon's suggestion. The applicant is providing thirty-eight percent common area or one-third of the site. This is considerably more than required. Swaney suggested an addition to the motion allowing the applicant flexibility with the parking lot so long as the twenty percent common area requirement is met. Karst, Cordova, and Morrison concur.

**Karst moved to recommend to the Mayor and Council approval of the rezone of a portion of Lot 3, Block 1, Parkwood Addition, Division No. 6 from RSC-1 to R-3A with PUD overlay, as presented. Motion seconded by Polson and passed.**

**Karst moved to recommend to the Mayor and Council approval of the final plat for Parkwood Addition, Division No. 6, as presented. Motion seconded by Dixon and passed.**

**Dixon moved to recommend to the Mayor and Council approval of the PUD for Lot 3, Block 1, Parkwood Addition, Division No. 6, including the elimination of the requirement to remove the southern row of current parking in Phase One, provided at least twenty percent of the PUD is common area as defined by legal counsel. Motion seconded by Cordova. Passed 9-1.**

**BUSINESS:**

**Zoning Amendments:** Magee asked the Commission if they believed the zoning ordinance should be amended in two areas: the first amendment will clarify building setbacks are not a part of the common area in a PUD. She explained setbacks in a PUD have been substantially reduced, especially in the R-1 and R-2 zones. The trade-off is the provision of common open space for the residents to utilize. Amending the ordinance will require the addition of the term "setbacks" or "yards" to the exclusions under common area. The majority of the commission is favorable to the amendment. Magee will proceed.

Magee explained another possible amendment is the ability to enforce site plans. The issue arose with variances and conditional use permits. These permits do not have the same language as the planned transition ordinance provisions which state all representations by the applicant on the site plan and in other application materials will be binding on the applicant unless a change is formally approved. In the planned transition zone the site plan becomes a binding document. Minor changes can be made at staff level, but substantial changes are presented to the commission for consideration. The consensus of the commission is site plans should be controlling documents and authorized amending the zoning ordinance.

The meeting adjourned at 8: 40 p.m.

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Debra Petty, Recording Secretary