

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
January 28, 2014

4:00 P.M. STUDY SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF Jamie Davidson, City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Development Services Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Interim Library Director; Jason Bench, Planning Division Manager; and Taraleigh Gray, Deputy City Recorder

Review – PD Zone Revisions – Greg Stephens

Mr. Stephens and Mr. Earl presented to the City Council and staff a possible revision to the PD Zone ordinance. This revision would give way for the development of a State Street plan, and would limit the number of new high-density housing projects in Orem. This amendment would give way for review and future amendments after a State Street plan has been completed.

CARE Allocation – Charlene Crozier & Karl Hirst

Mrs. Crozier discussed with the Council possible actions to take in initiating the process of allocating CARE money. Mr. Stephens indicated the original CARE tax was for a period of eight years. The new authorization for CARE tax is for a period of ten years, from April 1, 2014, to March 31, 2024. The CARE money will be split, fifty-fifty, between the arts and recreation.

Mrs. Crozier informed the Council that this is a unique year in terms of CARE due to the funds being split from the old election rules to the new election rules. The funds are also split between culture and facility expenses.

The discussion centered on what to do with the current year's CARE money due to the quarter/ three-quarter split between the old CARE and new CARE, and how to identify a plan to allocate the remaining new CARE funds.

Mayor Brunst brought the question of whether the Council would like to look at another set of committees, separate from the Arts Council and Recreation Advisory Committee. These new committees, one representing the Arts, and the other representing Recreation, would serve to assist in

the application review process for the awards of the mini grants. Due to lack of time to discuss this item further, the Mayor continued this discussion to a later date.

Public Works Advisory Commission – Chris Tschirki

Mr. Tschirki presented to Council and staff a plan to organize, by ordinance, a Public Works Advisory Commission. He provided a sample of language that this ordinance would include, and indicated the Commission would be comprised of seven members, all of who are appointed by the City Council. Initial the Commission member’s terms would be staggered, but that after the initial members the term of service would be three years.

5:00 P.M. STUDY SESSION – PUBLIC SAFETY TRAINING ROOM

REVIEW OF UPCOMING AGENDA ITEMS

The Council and staff reviewed the upcoming agenda items.

REVIEW AGENDA ITEMS

The Council and staff reviewed the agenda items.

CITY COUNCIL NEW BUSINESS

The Council adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION

CONDUCTING

Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS

Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF

Jamie Davidson, City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Development Services Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Interim Library Director; Jason Bench, Planning Division Manager; and Taraleigh Gray, Deputy City Recorder

**INVOCATION /
INSPIRATIONAL THOUGHT**

Sterling Bascom

PLEDGE OF ALLEGIANCE

Gayla Muir

APPROVAL OF MINUTES

Mr. Seastrand **moved** to approve the minutes of the January 14, 2014, City Council meeting. Mr. Macdonald **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the upcoming events listed in the agenda packet.

Appointments to Boards and Commissions

Mr. Seastrand **moved** to appoint Gayla Muir to the Beautification Advisory Commission. Mrs. Black **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

Walter C. Orem Award – Wayne Barnes

Mayor Brunst read a brief history of Mr. Barnes. Mayor Brunst presented Mr. Barnes the Walter C. Orem award and expressed his appreciation for all Mr. Barnes' efforts.

Proclamation – School Choice Week

After reading the proclamation, Mr. Sumner **moved** to proclaim the week of January 26 to February 1, 2014, as School Choice Week. Mr. Seastrand **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

CITY MANAGER APPOINTMENTS

Mr. Davidson requested the advice and consent of the Council to reappoint Becky Buxton to the Planning Commission.

Mayor Brunst **moved** to give the Council's advice and consent to Mr. Davidson's reappoint of Becky Buxton to the Planning Commission. Mrs. Black **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

PERSONAL APPEARANCES

Time was allotted for the public to express their ideas, concerns, and comments on items not on the agenda. Those wishing to speak should have signed in prior to the meeting, and comments were limited to two minutes or less.

Janelle Hale, resident, expressed concern about a tax increase for UTOPIA. She said she felt that internet access was not a public utility and looked forward to hearing solutions in regard to UTOPIA.

Sterling Bascom, resident, voiced concern about UTOPIA and asked what caused UTOPIA to fail. He expressed appreciation for the efforts put forth by the Mayor and Council.

Cheryl Radmall, resident, said she and other Stonewood neighbors were concerned about Midtown Village. She said she would like to see this development resolved before more high density housing projects are approved in Orem. She also voiced concern about proposed materials to be used in the project at 460 South.

Ron Fischer, resident, shared a personal story about visiting Brazil. He said he doesn't feel mixing commercial property with housing was a good idea. He voiced concern about gridlock, high density, and obstructed mountain views.

James Fawcett, resident, said he doesn't feel the two minutes allowed for personal appearances was enough time. He voiced concern about a mandatory fee when it came to the agreement partnership with UTOPIA. He said he was concerned the public isn't getting enough information about UTOPIA.

CONSENT ITEMS

There were no new consent items.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING

REZONE AND ZONE ORDINANCE AMENDMENTS

- Enacting Section 22-11-50, PD-37 zone, Appendix EE, and
- Amending Section 22-5-3(A) and the zoning map of the Orem City Code by changing the zone from the C2 zone to PD-37 zone for property at 1450 South State Street

Jason Bench, Planning Division Manager, presented an applicant request that the City Council approve the creation of the PD-40 zone and apply such zone to property located at 1450 South State Street in order to allow the construction of 180 residential units in two separate buildings. The mix of units will be split between one-bedroom units (753 square feet) and two-bedroom units (965 square feet). The area included within the application consists of seven lots, five buildings and a substantial area of undeveloped land.

Chapter 2 of the Orem General Plan states that PD zones are intended to be located in commercial and industrial land use locations. The General Plan also states that a PD zone can also be flexible, allowing the City and developer to create standards for a development that provide solutions to a variety of land use issues.

The subject property is located between State Street and 400 East and meets the intent of the general plan. The location of the development is an area that has some difficulty in keeping commercial uses or attracting any use as evidenced by the large area of undeveloped land.

Existing commercial uses on the subject property are located along State Street while the 400 East frontage is vacant. Aerial imagery from 1978 shows the property along 400 East as vacant at that time which indicates the subject property has remained underdeveloped for some time. Uses to the north and east are commercial; to the south is commercial and multi-family residential; and to the west is multi-family residential.

According to Section 22-11-1 (PD Zones) of the City Code, the purpose of Planned Development (PD) zones is to provide flexibility in the City's zoning scheme in order to allow for unique, innovative and well-planned developments that would not be possible under one of the City's existing zoning classifications. PD zones are not intended for use in situations where a proposed development is reasonably feasible under one of the City's existing zoning classifications or in situations where the primary purpose is to obtain a relaxation of standards applicable to similar types of development in other zones. The proposed PD-37 zone standards and density is significantly different than those found in a standard residential zone; therefore, a PD zone is the only alternative for this request.

Section 22-11-2(4)(b) states that residential development must be significantly different in design, layout or characteristics from the type of residential development allowed under existing zoning classifications. As noted above, the type of development being proposed for the PD-37 zone would not be possible in any of the City's standard residential or commercial zones and the only option for this type of project is through the creation of a PD zone.

The existing commercial uses are located in five buildings with two buildings either vacant or the location of multiple businesses over the last several years. Two businesses which have been at this location for several years include BJ Plumbing licensed since 1992 and Pearle Vision which has been licensed since 1985. BJ Plumbing is working with the City of Orem to find a new location. Pearle Vision has not contacted the City for assistance.

A neighborhood meeting was held on May 16, 2013, with representatives from Wendy's and the Housing Authority of Utah County in attendance. Both were supportive of the request.

The development standards of the proposed PD-37 zone include:

- A maximum density of 36 units per acre; the applicant is proposing 35.2 units per acre.
- An overall building height of 60 feet (existing C2 zone standards) with the proposed elevations measuring 52 feet.
- A setback of 25 feet to State Street and 20 feet from all other street curb lines and adjacent commercial property to the north.
- Contemporary architecture with vertical and horizontal relief, balconies, and material consisting of stone, stucco, cement fiberboard, metal and glass.
- Each one-bedroom unit shall provide 1.25 parking stalls and each 2-bedroom unit shall provide 2.00 parking stalls; one stall for each unit shall be covered.

- Perimeter fencing shall have a maximum height of seven feet and will be iron picket or iron picket on a low wall; fencing adjacent to commercial shall be solid panel construction.
- Landscaping consist of lawn, shrubs, and trees totaling 43,808 square feet of the development.
- A buffered sidewalk will be provided adjacent to all three street frontages.
- All dumpsters are to be located inside the building with internal access by the residents.
- Amenities include a pool, basketball and volleyball court, courtyards.

Advantages

- The PD-37 zone will improve an underdeveloped property into one that has more economic benefits to the City.
- Provides additional housing options.
- Provides street improvements along State Street, 1500 South, and 400 East including a separated sidewalks and landscape buffers.

Disadvantages

- A small area of commercial zoning along State Street would be removed.

Craig Woodmeier, with U.S. Development and representing the project, indicated that similar to a project completed in Centerville, Utah. He has met with UDOT about elimination of two driveways. He has also met with Wendy's representatives and received a permit for a shared driveway. Mr. Woodmeier added that a third exit to State Street was added at 1500 South. Originally there was only one exit planned on State Street, and one exit planned for 400 East.

Mr. Woodmeier spoke to the improvements that would be made along 400 East. Common areas for amenities to residents would also be included in the project. Mr. Woodmeier explained concepts on perimeter fencing and indicated that around the public street side of the project decorative picket fencing would be used.

Mr. Woodmeier then presented images of the prototype in Centerville that were then discussed. He said the project would enhance tenant diversity as the elevator access would help in allowing people to be on the fourth floor without having to climb four flights of stairs to get there. He concluded, saying the proposed project was an opportunity to improve a vacant lot that has been sitting for a long time.

Mrs. Black asked where the people in these proposed 120 units would cross the parking lot to get to the pool. Mr. Woodmeier indicated there would be designated pedestrian crossings.

Mr. Sumner asked about the ratio between one-bedroom and two-bedroom units. Mr. Woodmeier indicated ninety units would be one-bedroom, and ninety units would be two-bedroom. He said he anticipated either students or young married couples to occupy the units and the planned parking ratio of 1.34 stalls per unit would be an adequate parking ratio for the project.

Mr. Seastrand wondered why the property couldn't be developed with the existing zone. Mr. Woodmeier said his firm had analyzed a feasibility study about the existing commercial property

already available in the area. Located a block south of University Parkway, the proposed project would be a good transition and bring people to the area.

Mr. Macdonald said the Council has seen other projects similar to this which have not had sufficient funding to bring the project to fruition. He asked if Mr. Woodmeier's group had funding in place for this project. Mr. Woodmeier indicated that funding was not an issue, and that they are at the "finish-line" waiting for Council approval. Mr. Macdonald asked Mr. Woodmeier if they planned to build the entire project at once, and Mr. Woodmeier said they would stagger the building to facilitate the flow of construction.

Mayor Brunst inquired about (1) Mr. Woodmeier's plans to own the project jointly with the landowner over the long-term; and (2) the expected occupancy on the project. Mr. Woodmeier said they do plan to co-own the project. Comparing the proposal to the Centerville example, the occupancy could be 97 percent.

In response to a query from Mr. Macdonald about the apparent removal of the entrance at 400 East, Mr. Woodmeier said the entrance was still intact.

Mr. Sumner asked about rent projections and the process to be used in selecting tenants. Mr. Woodmeier indicated they project market rate rents, which currently are at \$1.05 per square foot according to the feasibility study. A management company would head the process of selecting the tenants.

Mr. Spencer asked if the management company would be onsite. Mr. Woodmeier said it would be, due to the number of units.

Mayor Brunst opened the public hearing.

Sterling Bascom, resident, asked about the parking. He said he did not feel the number of stalls was realistic. He wondered if two cars per apartment would be more feasible. Mr. Bascom also voiced concern about turning left onto State Street.

Ladell Gillman also shared concern about apartment complex parking. He wished for an overlay showing the commercial property still available in the Orem. Mr. Gillman said sales tax revenues were needed to run the City and asked if Orem could afford to keep rezoning commercial parcels.

Jeff Richens, business owner, questioned if more high density housing was in the best interest of Orem. He said his business would be displaced by the proposed project.

Janell Hale, resident, said she felt sales tax revenue was important.

John Coleman voiced concern for safety in the area with the increase of traffic. He said the surrounding streets would not have stop lights, and it would be difficult to cross at those intersections with just a stop sign. The roads were not built for that increase. He said he was not in favor of the rezone.

John Reinhard expressed concern about student housing being compatible with 1.25 parking stalls per unit. His main issue was with the number of commercial properties that had been rezoned in recent year to high density PD zones. He said he also had issues with the construction term “best use.”

Gayla Muir, resident, said she was concerned about parking. She asked if there would be overflow parking for tenants holding family gatherings.

Rob Wible, resident, spoke to traffic density and shared his desire to live out his days in Orem, as long as it does not get too crowded.

Julie Coleman said the south part of Orem was becoming flooded with apartments which have a high turnover rate. She would prefer to see more families in the area.

Mayor Evans closed the public hearing and brought the discussion back to the Council.

At the request of Mrs. Black, Mr. Woodmeier addressed the parking, saying there were are 301 parking stalls planned with the 180 units. The stalls would be numbered and each tenant would be assigned parking locations. He said he was comfortable saying the parking demands would be met.

Mayor Brunst asked the applicant and staff to address the possibility of having right-turn-only exits from the project. Mr. Bench indicated a traffic study would be required to determine this possibility. Mr. Woodmeier said the possibility of employing right-turn-only exits could be revisited in the future as the demand increases. Mayor Brunst added that he felt more comfortable with the project if they used right-turn-only exits. His recommendation would be to implement these right-turn exits from the start.

Mr. Andersen asked if there was a study done on the number of tenants who would be likely to use public transit over personal vehicles. Mr. Woodmeier said not study had been done, but current trends indicate an increase in the use of public transportation. People are also more likely to drive economical vehicles.

Mr. Andersen then inquired if Mr. Woodmeier had projected how many of the tenants might be students. Mr. Woodmeier said he had not. The feasibility study indicated that one- and two-bedroom units were in demand and the appropriate size for rental.

Mr. Sumner said he did not feel the parking was adequate. He asked about the pre-rental screening process. Mr. Woodmeier said the tenants would have to qualify financially and through a background check in order to rent. Because of the recession, many families could not afford single-family homes and had turned to apartments.

Mr. Macdonald acknowledged that the area did not generate a significant amount of sales tax revenue. Mr. Bench reiterated that the parcel had been vacant for some time. There would be bus stops along the area, with a stop planned at the University Mall in coordination with the Bus Rapid Transit (BRT), which was in close proximity to the project as well.

Mrs. Black agreed that the project was in close proximity to BRT. She requested translation of the rent amount from price per square foot into a more understandable rental cost per month.

Mr. Macdonald replied, saying a 750-square-foot, one-bedroom unit would rent for approximately \$750.

Mayor Brunst said the property, which had been open to commercial development, had been vacant for a long time. He said he appreciated the look and feel of the proposal.

Mayor Brunst then **moved**, by ordinance, to enact Section 22-11-50, PD-37 zone, Appendix EE, and amend Section 22-5-3 (A) and the zoning map of the Orem City Code by changing the zone on 5.09 acres at 1450 South State Street from the C2 zone to the PD-37 zone. Mr. Sumner **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald. Those voting nay: Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** 4:3.

Mr. Seastrand reiterated that his main concern was for commercial property that, once gone, was gone. The City would not be able get it back.

Mr. Spencer said his concerns were with losing businesses out of Orem.

6:20 P.M. PUBLIC HEARING

CONTINUED PUBLIC HEARING - REZONE AND ZONE ORDINANCE AMENDMENT

- Enacting Section 22-11-53, PD-40 zone, Appendix II, and
- Amending Section 22-5-3(A) and the zoning map of the Orem City Code by changing the zone from the C2 zone to PD-40 zone for property at 464 South State Street

Brent Sumner recused himself from the discussion and vote. He left the meeting at 7:31 p.m.

Mr. Bench noted that the item had been continued at the January 14, 2014, City Council meeting to give the applicant and architect additional time to provide samples of the architectural materials and other information concerning the design and construction of the buildings. Specifically, the City Council had concerns with the metal exterior paneling that was proposed.

Mr. Bench provided to Council an overview of the proposal. He drew attention to the changes to proposed colors and the overall use of metal material which was 37 percent.

The applicant was requesting that the City create the PD-40 zone and apply such zone to property located at 464 South State Street in order to allow for the construction of eighty-four residential units and four commercial/retail units. The existing C2 zone permits commercial/retail but does not permit the residential component. A PD zone was required for this type of development.

Under the applicant's proposal, a mixed-use building (upper floor residential and main floor commercial) would be located along State Street and 3 residential buildings would be located along Orem Boulevard. The 84 residential units will be a mix of 4 studio units, 28 one-bedroom units, and 52 two-bedroom units. The one-bedroom units have an overall size of 664 square feet, and the two-bedroom units contain between 807 to 835 square feet. The mixed-use building adjacent to State

Street will contain a total of 12 residential units (4 studio, 4 one-bedroom, and 4 two-bedroom) and 4 commercial units.

The applicant would dedicate property for a future right turn lane from Orem Boulevard to 400 South and would landscape the property in the interim. This future turn lane was shown on the concept plan.

The purpose of Planned Development (PD) zones, as outlined in Section 22-11-1, is to provide flexibility in the City's zoning scheme in order to allow for unique, innovative and well-planned developments that would not be possible under one of the City's existing zoning classifications. PD zones are not intended for use in situations where a proposed development is reasonably feasible under one of the City's existing zoning classifications or in situations where the primary purpose is to obtain a relaxation of standards applicable to similar types of development in other zones. The development proposed for the PD-40 zone is significantly different from and would not be allowed under any of the City's standard residential or commercial zones; therefore, the PD option is the only alternative for this request.

Orem City Code Section 22-11-2(2) also states that mixed-use projects are appropriate along State Street and University Parkway. The mixed-use building along State Street complies with this provision. Section 22-11-2(4)(b) requires that residential development must be significantly different in design, layout or characteristics from the type of residential development allowed under existing zoning classifications. As noted above, the type of development being proposed for the PD-40 zone would not be possible in any of the City's standard residential or commercial zones and the only option for this type of project is through the creation of a PD zone.

A neighborhood meeting was held on November 4, 2013, with seven citizens and the applicant in attendance. There was no opposition to the proposed zone.

The PD-40 zone standards included:

- A maximum density of 24 units per acre. The project, as shown on the concept plan, has a density of 23.3 units per acre.
- A maximum building height of fifty feet and a maximum of four stories.
- In Area A (residential along Orem Boulevard) buildings must be set back at least twenty feet from property not part of the PD-40 zone and any public street. Storage units may have a zero setback as shown on the concept plan. In Area B (mixed-use along State Street) buildings must be set back at least twenty feet from public streets and ten feet from adjacent property not in the PD-40 zone. Carports in either area must be set back at least five feet from adjacent property lines.
- At least fifty-five percent of the exterior finish materials must consist of brick, stone, stucco, glass, fiber cement board or any combination thereof. Up to forty-five percent of the exterior finish materials may consist of metal, both vertical and horizontal rib.
- At least 2.25 parking stalls will be provided for each residential dwelling unit, at least one of which must be covered. Parking for commercial uses must be provided at the rates required in Article 22-15.

- The perimeter of the development, excluding street frontages, must be enclosed with a fence of uniform construction at least six feet in height, but no greater than seven feet high. Wood and chain link fencing is prohibited.
- At least 25% of the gross acreage of the development must be landscaped including a minimum of 56 trees and 280 evergreen shrubs. The frontages along State Street and Orem Boulevard are required to have at least 20 feet of landscaping between the street and the buildings.
- A buffered sidewalk (with an eight foot landscaped planter strip between the street and sidewalk) will be provided along State Street and Orem Boulevard.

Advantages

- The PD-40 zone will improve an underdeveloped property into one that has more economic benefits to the City.
- Provides additional housing options including a potential for live-work commercial opportunities
- Provides improvements along State Street and Orem Boulevard including landscaping and sidewalks.
- The developer will dedicate property to the City along Orem Boulevard at 400 South for a future right turn lane.

Disadvantages

- The use of corrugated metal panels as a finish material suggests an industrial look which may not be an appropriate facade for a mixed-use/residential PD zone along State Street or Orem Boulevard.

Mayor Brunst asked if the intent was to construct all the buildings at once.

Craig Peay, developer, said they were leaning toward constructing the apartment buildings first and then seeing what happened from there. Their concept was to build a product that was less in price to accommodate those with lower incomes.

Mr. Spencer asked if the intended stone had changed, and Mr. Peay said it had. The original stone was white, but they were now looking at using a more natural color.

Mr. Macdonald asked how many exits were planned on Orem Boulevard. Mr. Bench indicated there are two planned exits on that street.

Mayor Brunst opened the public hearing.

Ladell Gillman, resident, asked about the possibility of four to six students renting a two-bedroom unit. He said he suspected this type of situation would change the parking immensely. He expressed that he was aware that children and grandchildren need a place to live but questioned how much of commercial property in Orem is going to be given up to high-rise apartments.

Sam Boedy voiced concerned that the meeting agenda indicated there was no opposition to the neighborhood meeting held on November 4, 2013. He said he opposed the external design and the

proposed sequential building plan. The project was planned with no amenities, and he was opposed to it.

Michael Ware said he lived outside of the informed zones but was still close enough to be concerned about the development. He expressed concern about the design and traffic. It was just another high-density project in Orem.

Bob Fisher said Orem was being ambushed by residential housing.

Mike Garrett voiced concern about the traffic on 400 South and Orem Boulevard. There were too many factors in this project that were not being addressed.

Janell Hale spoke of her concerns with traffic on Orem Blvd. The property should stay zoned as it was because Orem needed more commercial space than residential space.

Julie Mackay spoke to traffic concerns and said the building was unattractive.

Sterling Bascom stated that Orem was selling itself and asked what kind of city Orem wanted to be.

John Reinhard said he was concerned about the number of rentals in Orem.

Mayor Brunst closed the public hearing.

Mr. Spencer asked if a traffic study had been completed for 400 South and Orem Boulevard, since those streets were thoroughfares to Utah Valley University. Mr. Bench said no traffic study had been completed for the proposed project.

Mrs. Black asked if the PD zone requirement could be to build the commercial building first to ensure that the City got the commercial space back.

Mr. Peay said such a requirement would make it difficult to build the project. They need to already have tenants in line and ready to occupy the space in order to support the commercial component of the project.

Mr. Macdonald said traffic was a concern, and it was his understanding that commercial property generated more traffic. Mr. Bench concurred.

Mr. Seastrand asked what would if the PD zone was approved but the developer could not finish the complex. Mr. Earl said there was nothing the City could do to require that any or all the projects were finished. Projects like the one proposed are often driven by market forces which play a role in dictating what a developer can do.

Mr. Spencer asked how far out the neighborhood notices were sent for the project. Mr. Bench referred to a City Council resolution that identified the noticing area as 300 feet. If the City wanted to consistently notice beyond a 300-foot radius, a revision to that resolution would be appropriate.

Julie Smith added that the project entailed dedicating land for a decelerating/accelerating traffic lane, for use upon entry to and exit from the project.

Mrs. Black asked if the City could require them to build in a phase order. Mr. Earl said the City could not dictate that.

Mr. Seastrand asked for clarification on why the street improvements on the corner of Orem Boulevard and 400 South were not part of the development.

Mr. Earl said that was an off-site improvement and would require legal analysis to determine traffic impact. The number of trips being generated by the project would be a relatively small percentage of the overall traffic on Orem Boulevard.

Mrs. Black **moved**, by ordinance, to enact Section 22-11-53, PD-40 zone, Appendix II and amend Section 22-5-3 (A) and the zoning map of the Orem City Code by changing the zone on 3.66 acres at 464 South State Street from the C2 zone to the PD-40 zone—with the requirements that:

1. After the first residential building is constructed in Area “A,” then the next one would have to be commercial in Area “B”. In other words, before the developer can build a second building in Area A, the developer has to build the building in Area B. This is to ensure the City of commercial investment in the zone.
2. Sizing of the buildings must be consistent with what was presented, and must maintain what the concept plan represented. For example, the sizing of the first apartment building needs to reflect what is noted in area “A” of the concept plan, and the commercial building needs to reflect what is in area “B” of the concept plan.
3. Developer shall use the SimTek fencing material as presented in the meeting.
4. Total metal siding used for the project shall not exceed thirty percent of the exterior finish materials.

Mr. Spencer **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, and David Spencer. Those voting nay: Mr. Seastrand. The motion **passed** 5-1.

Mr. Sumner returned to the discussion at 8:38 p.m.

6:20 P.M. PUBLIC HEARING

ORDINANCE – STREET VACATION - Amending Article 22-5-3(A) and the zoning map of the Orem City Code by applying the agriculture overlay zone (AG) to property located at 31 South 800 East and 75 South 800 East

REQUEST: James and Luwaine Proctor request that the City Council, by ordinance, vacate a portion of an unimproved street that runs adjacent to their property at 575 East 1000 South.

Jason Bench presented a request that the City approve a street vacation ordinance. James and Luwaine Proctor own a house at 575 East 1000 South. Their lot was originally part of La Mesa, Plat “A” Subdivision which was recorded in 1958. The original La Mesa plat included street dedication for an extension of 590 East Street north of 1000 South which is where 590 East Street currently terminates. The dedicated area of 590 East adjacent to the Proctor parcel was never

constructed and never will be due to the way property in the area has developed including the development of University Mall. In fact, most of the dedicated area of 590 East Street north of 1000 South was previously vacated by the City in 2001. The remaining dedicated street area adjacent to the Proctor parcel represents only half the original dedicated street width as the other half was vacated in 2001.

Mr. Bench indicated the Proctors were requesting that the City vacate the remnant of the unimproved 590 East Street adjacent to their parcel. Typically, upon the vacation of a dedicated street, half the street area would revert to the property on one side and the other half would revert to the property on the other side. The eastern portion of 590 East already reverted to the Mall when it was vacated in 2001, and the Mall constructed a masonry wall along the former center line of the dedicated street area as well as at the northern end of the dedication area adjacent to the Proctor parcel. If the City Council approved the vacation of the remaining dedicated area, that property would automatically revert to the Proctors.

Mr. Bench explained that the City Council could vacate the portion of 590 East Street north of 1000 South Street if it found (1) there was good cause for the vacation; and (2) the vacation would not be detrimental to the public interest. Additionally, the owners should be required to record a subdivision plat that incorporated the street vacation into the rest of their property.

Mayor Brunst opened the public hearing. When no one came forward, Mayor Brunst closed the public hearing.

Mr. Macdonald **moved**, by ordinance, to vacate approximately .05 acres of 590 East Street located north of the intersection of 590 East and 1000 North. Mr. Andersen **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

COMMUNICATION ITEMS

Monthly Financial Summary – December 2013. Mr. Davidson referred the council to the information contained in the agenda packet regarding the monthly financial summary.

CITY MANAGER INFORMATION ITEMS

Mr. Davidson requested the Council sign a get well card for Cameron Martin.

Mr. Davidson informed the Council about a letter received regarding an illegal accessory apartment. The letter had been forwarded to the Neighborhood Preservation Unit, who would follow up with this concern.

Mr. Davidson noted that the legislative session had begun, and the focus for the first week had been on the appropriation process.

ADJOURNMENT

Mr. Andersen **moved** to adjourn the meeting. Mrs. Black **seconded** the motion. Those voting aye: Councilmembers Hans Andersen, Margaret Black, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed** unanimously.

The meeting adjourned at 8:46 p.m.

Approved: February 25, 2014

Donna R. Weaver, City Recorder