



**MIDVALE**

In the Middle of Everything

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**Midvale City**  
**PLANNING AND ZONING COMMISSION**  
*Minutes*

**12th Day of April, 2017**  
**Council Chambers**  
**7505 South Holden Street**  
**Midvale, Utah 84047**

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***COMMISSION CHAIR:*** Kass Wallin

***PLANNING AND ZONING  
COMMISSION VICE CHAIR:*** Shane Liedtke

***BOARD MEMBERS***  
Colleen Costello  
Richard Judkins  
Evan Hanson

***STAFF:***  
Lesley Burns, City Planner  
Matt Hilderman, Associate Planner  
Nicole Selman, DCD Administrative Assistant

**GENERAL SESSION**

Chairman Wallin called the Planning & Zoning Commission meeting to order at 7:00 p.m. The meeting began with the recitation of the Pledge of Allegiance. He informed the public there were agendas on the front table along with a sign-in sheet for them to sign. He explained how the meeting would proceed. First, the Planning Department would brief the Commission; then the applicant would speak to the Commission; after which, the floor would be open to the public for their brief statements and comments.

## ROLL CALL

Mr. Hanson	Present
Mr. Liedtke	Present
Mr. Judkins	Present
Mr. Wallin	Present
Ms. Costello	Excused

## PUBLIC HEARING

### **1. CUP-21-26-276-010; MARATHON HEALTH CHG MEDICAL CENTER; 7259 SOUTH BINGHAM JUNCTION BOULEVARD; CONDITIONAL USE PERMIT FOR MEDICAL CENTER USE; BINGHAM JUNCTION ZONE/JUNCTION AT MIDVALE OVERLAY; DAVID RIDLEY (APPLICANT)**

Mr. Hilderman presented that David Ridley, authorized agent for Marathon Health, submitted a complete application proposing to operate and manage a health care service for the existing CHG Healthcare Office Campus. The applicant proposes to occupy an estimated 2600 sq. ft. space, on the 1st floor of the South Office building, and consists of several exam rooms, offices and lab area, breakroom, group consultation room and reception area.

The applicant is proposing to operate an employer-sponsored health center for the CHG employees' and their families and dependents. Marathon Health is a nationally recognized on-site or near-site health center for employees, providing services for over 80 organizations across the United States in approximately 150 locations. Marathon Health has been providing services to CHG Healthcare for the past five years and will relocate to the new CHG Healthcare Office building. Services that will be provided include; minor acute care services, emphasizing wellness, prevention and health coaching, and performing CLIA (Clinical Laboratory Improvement Amendments) lab tests as well. CLIA defines a clinical laboratory as any facility which performs laboratory testing on specimens from humans for the purpose of providing information for diagnosis, prevention, or treatment of disease or impairment; and health assessments.

The applicant anticipates a total of four to five (4-5) employees during the initial operation, with a maximum of six (6) employees after one-year of operation. The operating hours are anticipated to be Monday-Wednesday-Friday from 8:00 a.m. to 5:00 p.m. and Tuesday-Thursday from 7:30 a.m. to 4:30. Marathon Health serves only a closed network of CHG employees, including their families and dependents, on an appointment only basis and will not be available to the general public at this location.

The recommended amount of parking spaces for this proposed use is required to be one per two beds or five spaces per 1,000 sq. ft. of net leasable building area. Based upon review of the submitted site plan, the minimum amount of required off-street parking spaces would be thirteen (13). Based upon the approval of the Small Scale Master Plan for the CHG Office Campus, identifying a total of 2,592 parking stalls, and applicant's proposed use, the required amount of off-street parking is sufficient for this medical center. The applicant has indicated that no further improvements are proposed and since this proposed use is located on an existing developed

parcel and the overall site or building mass size is not proposed to be altered, no further development standards or improvements are required.

This proposal is located within the Clean Industrial (CI) zone, which requires a Conditional Use Permit for any hospital / medical center use. In order to approve a Conditional Use Permit, the following applicable criteria must be satisfied:

1. The application complies with all applicable provisions of the zoning ordinance, state and federal law;
2. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
3. The use is not detrimental to the public health, safety and welfare;
4. The use is consistent with the Midvale City General Plan, as amended;
5. Traffic conditions are not adversely effected by the proposed use including the existence of or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;
6. Sufficient utility capacity;
7. Sufficient emergency vehicle access;
8. Location and design of off-street parking as well as compliance with off-street parking standards provided for in §17-7-12.7;
9. Fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses; and
10. Exterior lighting that complies with the lighting standards of the zone and is designed to minimize conflict and light trespass with surrounding uses.

In reviewing this application and the above criteria, it appears this proposal will not be detrimental to the health, safety and welfare of people and businesses in the area. The majority of the items above have been addressed with the SSMP approval for CHG; i.e. compatibility of structure, adequate parking, sufficient utility capacity, sufficient emergency vehicle access, exterior lighting, site work, etc. Since this use is primarily for the CHG employees, they are not anticipated to generate additional traffic and through the Business License review, the additional state requirements and licensing standards will be addressed.

#### **STAFF RECOMMENDATION:**

Based on the proposal's compliance with the Conditional Use Permit criteria and the above analysis, Staff would recommend that the Planning Commission approve the Conditional Use Permit for **Marathon Health LLC**, to be located at **7259 South Bingham Junction Boulevard**, with the following conditions:

1. The medical center use is being approved as part of the larger development plan as illustrated in the Small Scale Master Plan approval for the CHG Healthcare Office Campus.
2. All State requirements and licensing for this facility shall be in place before operation begins.

Mr. Wallin asked if there are any modifications proposed to be made to the exterior of the building.

Mr. Hilderman stated there will not be any exterior modifications.

David Ridley, with Marathon Health LLC, stated he is the applicant for this item. He explained they have been operating this health center for nearly five years within the old CHG facility. This is a well-established practice without any changes to the services they offer. They do not collect any cash and they do not store or distribute narcotics on-site.

Mr. Wallin asked how much additional traffic will be generated by this practice.

Mr. Ridley explained that over the past year 18% of their office visits have been made by the spouses and dependents of CHG employees. This means that additional traffic created by this practice is very minimal.

Mr. Judkins asked if there is a pharmacy associated within this clinic.

Mr. Ridley stated they have some basic non-narcotic medications that they use as a starter set on-site. They do not fill or re-fill full prescriptions the way a pharmacy would.

Mr. Judkins moved to open the meeting to a Public Hearing. Mr. Hanson seconded the motion. Motion carried.

There were no questions or comments from the public.

Mr. Judkins moved to close the Public Hearing. Mr. Hanson seconded the motion. Motion carried.

Mr. Judkins stated this item meets all the criteria necessary for obtaining a Conditional Use Permit.

There was no further discussion regarding this item.

**MOTION:**

Mr. Liedtke moved that, *“Based on the proposal’s compliance with the Conditional Use Permit criteria and the above analysis, I move to approve the Conditional Use Permit for Marathon Health LLC., to be located at 7259 South Bingham Junction Boulevard, with the following conditions:*

- 1. The medical center use is being approved as part of the larger development plan as illustrated in the Small Scale Master Plan approval for the CHG Healthcare Office Campus.*
- 2. All State requirements and licensing for this facility shall be in place before operation begins.”*

Mr. Hanson seconded the motion. A roll call vote was taken.

Mr. Hanson Yes  
Mr. Judkins Yes  
Mr. Liedtke Yes

Motion carried unanimously.

**2. REZ-22-30-153-008; A CUT ABOVE TREE PRESERVATION; 7321 SOUTH STATE STREET; REZONE 0.53 ACRES FROM SINGLE FAMILY RESIDENTIAL (SF-1) WITH DUPLEX OVERLAY TO STATE STREET COMMERCIAL; JEREMIAH ELDER (APPLICANT)**

Mr. Hilderman presented that Jeremiah Elder, president of A Cut Above Tree Preservation LLC business and representative of the property owner, is proposing to rezone and develop property, located to the rear and adjacent to existing commercial structures to the West, at 7321 South State Street under the proposed State Street Commercial zone district development standards. This proposal includes two (2) parcels totaling approximately 0.76 acres (33,105.6) sq. ft.) and is currently vacant, undeveloped ground, excluding the applicant's machinery and equipment for his business located on the premise. The applicant is proposing, upon approval of the rezone request, to continue operating his primary office business and transactions at 7321 South State Street, #B and continue storing machinery, equipment, construction trailer, and associated items on the property to rear.

This proposal requires the property to be rezoned from SF-1 with a Duplex Overlay to the State Street Commercial zone; preliminary and final site plan approval that complies with the requirements of the SSC development standards; and approval of an Administrative Conditional Use Permit for any proposed outdoor storage use associated with the primary business.

**HISTORY**

- As stated by the applicant and confirmed by Staff, this business has been in operation since November, 2008. The City received an initial complaint on August, 2008 that a commercial business was being operated from property identified as 58 East Cox Lane (7350 S.) The applicant submitted an initial business license application and was approved for a home-based business at 58 East Cox Lane.
- Subsequently, the applicant continually renewed his business license application each year, identifying the residential address above, as his primary business location. The proposed property for rezone and the applicant's commercial business, have had numerous code violations concerning the use of this property. These violations included the storage of commercial vehicles, storage of wood chips/piles, and a non-approved outdoor storage area.
- On May, 2012, the applicant along with representatives from the City, conducted a meeting and agreed to specific actions to comply with provisions of the zoning ordinance.
- On October, 2012, this issue was brought before the Midvale City Council for further discussion and direction on how to proceed.

- On January 26, 2016, the applicant submitted a new business license application and was approved, identifying his primary business location at 7321 South State Street, #B. During Staff's review of the documentation, it was never identified or stated that outdoor storage would be necessary to operate this business, nor allowed on the proposed property for rezone.
- On October, 2016, a Development Review Committee (DRC) meeting was conducted with the applicant and representatives from the City, that identified the appropriate processes, development standards, improvements and permits required for this business to operate at this location.
- On September, 2016, a building permit application was received for an electrical outdoor power pedestal and was approved subject to specific requirements and standards.
- A 2017 business license renewal application was received on December, 2016, identifying 7321 S State Street, #B as the primary business location. Staff, aware of the existing zoning violations on the adjacent property, delivered a letter stating we were unable to approve the renewed business license. A meeting ensued among, City Staff and a representative from the City Council, where it was required that an official application to the rezone property must be submitted or further enforcement of the violations would ensue.

## **REZONE**

Under Section 17-3-1 of the Zoning Ordinance, the Planning Commission may recommend, and the City Council may grant, a rezoning application if it determines the rezoning is consistent with the goals and policies of the Midvale City General Plan and the following:

1. The proposed rezoning is necessary either to comply with the Midvale City General Plan Proposed Land Use Map, or to provide land for a community need that was not anticipated at the time of the adoption of the Midvale City General Plan;
2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development caused by natural characteristics of the land, including but not limited to steep slopes, floodplain, unstable soils, and inadequate drainage; or
3. Land surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

With the adoption of the Midvale City General Plan 2016, there is no longer a General Plan Proposed Land Use Map designating future uses of property. Under the new General Plan, this property is part of the Middle State Street Opportunity Area. The General Plan states the boundary is intended to encompass properties that front on or have direct access to State Street and the area includes underutilized commercial uses facing State Street with limited parking. Some future land use goals for the Middle State Street area include:

1. Support development of higher-value commercial and business uses through the development of mixed-use and higher density residential uses.
2. Focus commercial and mixed-use development at nodes of 7500 South and 7720/7800 South. Support redevelopment of the underutilized commercial properties between the

commercial nodes into mixed-use residential development.

The General Plan identifies some future goals for Residential Development and Housing development (Midvale City General Plan, Pg. 56) that includes:

1. Maintain and strengthen stable neighborhoods. The goal includes preserving the quality and character of existing neighborhoods; providing neighborhoods with better connectivity and access to recreational amenities; and ensuring that infill and adjacent development is compatible with the existing neighborhoods.
2. Expand the variety of housing opportunities to allow for more choices in types and locations of residences. This includes providing for a mixture of housing sizes, densities, types and affordability in each area of the City.
3. Encourage higher density residential in appropriate locations in Opportunity Areas to create the market needed for viable commercial development.

The General Plan further identifies some future goals for Commercial Development and Economic Sustainability (Midvale City General Plan, Pg. 57) that includes:

1. Plan for a balanced mix of commercial and residential land uses in Midvale to provide for the City's long-term fiscal sustainability.
2. Plan for well-located, high-quality commercial developments.

This rezone request represents a significant change to the current zoning and land uses on this piece of property. If the property receives approval of the rezone amendment, the applicant would be required to receive approval of an Administrative Conditional Use Permit (ACUP) for an outdoor storage use and the standards required to be met would be; the outdoor storage area can only constitute a maximum of 15% of the total lot area, screening of the outdoor storage area would require installation of a six-foot (6') fence made of solid metal, CMU (concrete masonry unit) block or decorative concrete, and the storage yard must be surfaced with asphalt, recycled asphalt, or concrete, and must be located a minimum of 30-feet away from single-family zones and improved with landscaping elements. The construction trailer would also require inspections to comply with the Building Code standards and zone development standards as well. If the property receives denial of the rezone request, the applicant would be required to remove all equipment, vehicles, structures, and materials from the subject property and relocated to an appropriate and approved area.

The applicant has further stated the purpose of the rezone amendment is the subject property can only be accessed through commercial property and its highest and best use is commercial, similar to the contiguous properties surrounding the subject property. This property is accessible through two points of ingress/egress; one access through the existing parking lot of 7321 South State Street; and a second access from an estimated twenty-two-foot (22') driveway off Cox Lane. Both accesses can be identified within the State Street Commercial (SSC) zone district and the neighboring properties to the West are also commercially zoned however; the adjoining properties to the North, East, and South are identified as Single-Family Residential.

The Planning Commission will need to consider the appropriateness of the rezone request and forward a recommendation to the City Council for its consideration. The City Council will make

a final decision on this legislative request.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission conducts a public hearing on this request and considers all appropriate and applicable input received. If the Planning Commission has questions or concerns that cannot be answered at the meeting or if additional information is needed, Staff recommends the Planning Commission table a decision for a later date, stating the specific information being requested.

Mr. Hilderman read a letter from a Midvale City resident named Kathleen White who wished to express her concerns with this request. She is unable to attend the meeting however she would like the Planning Commissioners to know that she is opposed to this request for a re-zone because it will create commercial traffic in her neighborhood and pose a danger to the children that play outside.

Jeremiah Elder stated he is the owner of a Cut Above Tree Preservation. He addressed some of the concerns listed in Ms. White's letter. He assured the Planning Commissioners that it is a priority for his business to be a good neighbor to the nearby residential area because he lives in the nearby residential area. The people who live nearby are his neighbors in both his home and work life. He explained that his business has been operating at this location for a couple years. He was under the impression that he had already brought all the historical issues presented by staff into compliance. He attended a City Council meeting in 2013 where he was told that the business would be in compliance if he were to install some recycled asphalt on the lot that is currently being used to store his business equipment. Upon their recommendation, he went ahead and installed the asphalt. It has been a couple of years since then and he is now being told that he is still not in compliance and there is a threat of criminal charges for failing to comply. This was a surprise to him. He followed through with doing what the City Council requested of him. He plans on landscaping this property to make it a nice-looking commercial property. He enjoys operating his business from this location because he lives right across the street. He has invested a large sum of money into this location. His business is good for Midvale City. He feels it would be a win-win if he could continue to run his business from this location.

Mr. Wallin noted that in some of the communications Mr. Elder had with City Staff, he was given a list of items that needed to be addressed to bring the property into compliance. Some of these items include the removal of large machinery and commercial vehicles that are being stored on the nearby vacant lot. He has looked at some aerial photos of the lot and it appears there is still an issue with equipment and vehicles being stored on the vacant lot. He inquired as to how Mr. Elder was led to believe the property is in compliance.

Mr. Elder replied that the communications between him and Staff took place in 2012. It was after those initial communications that he attended a City Council meeting and was told he would be in compliance if he paved the vacant lot.

Mr. Wallin asked Mr. Elder which required criteria for a rezone as stated in the General Plan is applicable to this request.

Mr. Elder stated this request aligns with the General Plan because it expands the opportunity to conduct business on State Street.

Mr. Wallin replied that he understands Mr. Elder's point, however, the language specifically states that the property requested to be rezoned must front State Street or have direct access to State Street. The vacant parcel does not meet either of these requirements.

Mr. Elder explained that he thought direct access to State Street was available because the building that is rented by his business is located on the parcel that is adjacent to the vacant lot. Both parcels are owned by the same property owner.

Mr. Judkins replied that they are separate parcels which means the parcel the building is located on has direct access to State Street, however, the parcel with the vacant lot does not. It is only the parcel with the vacant lot that is under consideration for a rezone.

Mr. Judkins asked how many and what size of vehicles are being parked on the vacant lot.

Mr. Elder stated there are several five-ton bucket trucks that are used for tree trimming. There is also a trailer that is used as a mudroom. Its purpose is to keep muddy shoes and clothes away from the central office building.

Mr. Judkins asked Mr. Elder if he is aware of the requirement to install a solid site-obscuring fence around the perimeter of the vacant lot if this rezone is granted.

Mr. Elder stated he is aware of that requirement. He already installed a 6-foot chain link fence around the lot. During his past meeting with the City Council he was told that adding slats to the chain link might be a viable option.

Mr. Judkins replied that a chain link fence with slats is not an acceptable fencing material per the Midvale City Code. He asked Mr. Elder if he is aware that there are some other upgrades that would be required to bring this property into compliance.

Mr. Elder stated he is aware of that fact and he does not have an issue with doing whatever he needs to do to keep his business operating.

Mr. Liedtke added that the Code states that fencing may be made of solid metal, CMU, or decorative concrete. All fencing must be 6-feet in height. That means Mr. Elder will need to replace his existing chain link fence.

Mr. Elder asked if it would be possible to update the Code to allow a chain link fence with slats. In his opinion chain link is an acceptable site-obscuring material.

Mr. Liedtke explained there is a perception that Mr. Elder expects Midvale City to change its ordinances rather than bringing his business into compliance. He is requesting a rezone for a piece of property because he is currently using that property in a way that is not conducive to how it is currently zoned. Now he is asking to rewrite the ordinance to accommodate his desire to save money upon learning that he will need to make further improvements if a rezone is

granted.

Mr. Elder replied that he works with various municipalities which has given him a good understanding of how they function. In his opinion all municipalities have too many rules that aren't good for the public and those same rules also tend to hinder the success of local businesses. This is an area where the government needs to put more thought into what it is doing and make some changes. That's why he is here challenging the ordinance. There was a time when he could have simply bowed down but there are some ordinances that are outdated. Those ordinances don't work well with progress. He feels some things need to be questioned in this world. He asked the Commissioners if a restaurant parking lot is considered a commercial use.

Mr. Wallin reminded Mr. Elder that he is present as the applicant for a rezone. It is not the responsibility of the Planning Commission to argue the validity of the Ordinance or provide a historical explanation of why rules exist. The role of the Commission, in this instance, is to review the information provided by staff and the applicant to make an appropriate recommendation to City Council. The request for a rezone of this property could have some potential negative impacts on the surrounding residential areas. That is why the Planning Commission is attempting to ensure the applicant will make improvements to the property if a rezone is granted. There is an ulterior goal to protect the homeowners who live right next to this vacant piece of property.

Mr. Elder countered that he can understand what Mr. Wallin is saying, however, he is left wondering if there is some favoritism happening in Midvale City. He is trying to compare what other types of business can do in the City because it seems like other businesses are getting away with things that he is being held accountable for. He would like to know why other businesses, such as restaurants, aren't required to have a 30-foot buffer or a site obscuring fence but those are standards that are being imposed on his business.

Mr. Judkins explained that other businesses might be in another zone with different requirements and that there are different rules that govern different business types. Zoning requirements are not one size fits all. The standards that Mr. Elder is being asked to meet are appropriate for this specific location and for this specific type of business.

There were no further questions for the applicant.

Mr. Hanson moved to open the meeting to a Public Hearing. Mr. Liedtke seconded the motion. Motion carried.

Megan Hart stated she is currently living with Mr. Elder and that they have been in a relationship for five years. She has lived in the neighborhood with him for the past five years. She has watched him grow his business from a small home occupation to a much larger commercial business. She has absolutely loved living in Midvale City. When there wasn't a fence around the perimeter of the vacant lot she used to worry about having vehicles and heavy equipment parked there every night. Having a fence up has been a major relief. It has fixed a lot of issues with trash piling up and vagrants camping out there. She added that there is plenty of room for trucks to get from State Street to the vacant lot without any issues. Employees who work for A Cut Above are very careful about making sure they are not driving up and down Cox Lane. She feels that this

business has the support of the neighborhood. They have watched Mr. Elder build it from the ground up and it has had a very positive impact on the surrounding area. It has turned a trouble property that used to attract crime into something useful and it has brought extra jobs into Midvale.

Franc Mendicino stated he currently resides at 72 East Cox Lane. He apologized for the cat calls throughout the meeting. He has witnessed the growth of Mr. Elder's business and the growth of Mr. Elder as a person. He would refer to what he has seen as a great American success story. He knows there are some issues involved with the zoning of this property and there is some debate as to whether it has direct access to State Street. He pointed out that Mr. Elder stated that he always accesses this property from State Street. Mr. Elder's employees are very courteous. If they do anything that is out of line, then Mr. Elder is always quick to mitigate the problem. He lives right next door to Mr. Elder. When the business first started out it was a little bit uncomfortable. There were vehicles and equipment being stored on the street and wood chipping was taking place in the neighborhood. All those problems have gone away ever since Mr. Elder relocated his business. Mr. Elder is someone who does care about his neighbors. He has personally hosted a few neighborhood block parties. His girlfriend, Ms. Hart, has also be a great neighbor. She is very well-known and adored by all her neighbors along Cox Lane as well as Whispering Cottages. Aside from warming up vehicles in the morning, this is a very quiet business. It is his hope that the Planning Commission will respond favorably to Mr. Elder's request for a rezone. This is a legitimate and growing business. There is still so much potential for this business to get bigger. Mr. Elder does beautiful work because he takes what he is doing to heart. He is a very passionate man. He wants to be in Midvale and he wants to help the City grow.

Mr. Judkins commented that if this property is rezoned it will have the potential to be developed into any kind of commercial use that is allowed within that zone. That means this property could be redeveloped into office buildings or something similar if Mr. Elder relocates his business elsewhere. He asked Mr. Mendicino if he is comfortable with that possible outcome considering he lives so close to that vacant lot.

Mr. Mendicino stated the potential consequences of this rezone are simply part of urban growth. When you live this close to State Street then growth is unavoidable. Everything is growing and for the most part it has been a good thing. He really appreciates what Midvale City has done. Staff works hard to keep things in check. He is willing to take whatever he might end up with. Growth isn't a big deal to him. If it was then he would simply move. He can understand that some people would like to live in one place forever. That's admirable but they need to understand that things will change around them whether they like it or not.

Josie Devey stated she had no idea any of this was going on. She owns and operates a salon next to the property under discussion. Her business has been open for almost nine years. She stated that her business plaza looks beautiful ever since A Cut Above moved into their commercial building. She has watched them grow so much in such a short period. She is happy to witness their success. She appreciates Midvale City's willingness to consider Mr. Elder's request. Mr. Elder is a responsible business owner. He spends extra time clearing out weeds and garbage from her business plaza because he wants the entire area surrounding his business to look nice. She hopes the City doesn't overlook the positive impact Mr. Elder has had on his community. Mr.

Elder is a hard worker with very polite employees. Her business operates Monday through Saturday from 9am to 6pm. By the time she gets to work, Mr. Elder and his crew have already left to work out in the field. She doesn't know when they all get back to the office because she is always gone before they return. It is a really quiet and peaceful business. She is so grateful to have them in the same business plaza as her. She isn't here because Mr. Elder asked her to attend this meeting. She didn't even understand what this meeting was going to be about. She knows Mr. Elder. She knows that he does good work and he is always trying to do the right thing. She believes that everybody deserves a chance. She hopes the Planning Commission will please give him a chance. She thanked the Planning Commission for their time and the opportunity for her to comment on this item.

[At 8:05pm Mr. Hanson was excused from the remainder of the meeting.]

Changshou Sun asked if it would be possible to add a street light to Cox Lane.

Mr. Wallin stated this public hearing is for comments regarding a possible rezone. It would be best to contact the City Engineer at later time to request a street light.

Ms. Sun stated she doesn't care if this property is rezoned. She just wants another street light added to Cox Lane.

There were no further questions from the public.

Mr. Liedtke moved to close the Public Hearing. Mr. Judkins seconded the motion. Motion carried.

The Planning Commission discussed at great length the possibility of rezoning this property. They pointed out that this is a unique parcel of land because it is landlocked by other parcels that are already fully developed. They agreed that this request does not meet the requirements for a rezone in a definitive enough manner. They noted this property could be developed into homes rather than rezoning it to be commercial. They ultimately decided that while they do not wish to make a negative recommendation after listening to the comments made during the Public Hearing, they also are not comfortable with making a positive recommendation unless this property were legally combined with the adjacent commercial parcel. They presented Mr. Elder with the option to speak with the property owner and request that the two parcels be combined. Mr. Elder agreed to reach out to the property owner of both parcels.

**MOTION:**

Mr. Judkins moved that, *"I move that we table a decision on this request until April 26, 2017 giving the applicant an opportunity to get with the property owner and discuss the possibility of making a reasonable connection to the State Street property that is legal and binding."*

Mr. Liedtke seconded the motion. A roll call vote was taken.

Mr. Judkins    Yes  
Mr. Liedtke    Yes

Mr. Wallin Yes

Motion carried unanimously

**ACTION ITEM**

**3. REZ/CUP/SPR-22-29-202-062; UNION WOODS APARTMENTS; 7090 SOUTH UNION PARK AVENUE; REVIEW OF TRAFFIC STUDY AND ACCESS EASEMENT CONDITIONS FROM PLANNING COMMISSION DECISION ON OCTOBER 12, 2016; REGIONAL COMMERCIAL ZONE; UNION WOODS ACQUISITIONS PARTNERS LLC (APPLICANT)**

Ms. Burns presented that on October 12, 2016, the Planning Commission recommended rezoning a portion of the Union Woods office development site located at 7090 South Union Park Avenue to include the RC Residential Overlay, and approved a Preliminary Site Plan and Conditional Use Permit for the redevelopment of the existing surface parking area to include a 209-unit apartment building and a four-level commercial parking structure. As part of this approval, the Planning Commission included several conditions that need to be addressed before the final site plan for the project can be approved. The applicant has submitted information for two of the conditions that require further Staff and Planning Commission review. These conditions include the following:

17. Before the final site plan is approved, the City Attorney will assure the Planning and Zoning Commission that legal issues surrounding all shared easements have been adequately resolved.
20. The applicant will be responsible to provide an independent traffic study and work with the City Engineer to ensure the intersection at 1300 East and Union Park Avenue is designed to adequately handle traffic efficiently with the new development. This will be reviewed by the Planning and Zoning Commission at the time the final site plan is reviewed.

The City Attorney has reviewed the information provided by the applicant's attorney including the shared easement between the Union Woods property and the Campbell property to the north. It has been determined that the easement provides for the free flow of pedestrian and vehicular traffic between the properties. At the present time, the City is not aware of any legal issues regarding this easement. The easement benefits both properties by providing needed secondary access for the existing development on both properties. If issues arise over the easement in the future, both property owners have legal rights and remedies to deal with the issues. The City Attorney will be available at the meeting discuss this in more detail.

The applicant hired A-Trans Engineering who provided a traffic study reviewing the impact created by this project at the intersection of 1300 East and Union Park Avenue. The traffic study determined that the traffic generated by this project will have minimal impact to the intersection and street network with only a 2-3% increase in traffic. The study noted the traffic will be going in opposite directions for the office and residential uses. The City Engineer reviewed the traffic study and agreed with its findings. The study did recommend that the access road onto Union Park Avenue be restriped so that thru and left and right turn lanes are clearly identified, as well

as adjusting the signal timing at the intersection, if needed, once the development is built. The City Engineer will include these recommendations as part of the approval for the Final Site Plan. The City Engineer will be available at the meeting to discuss the findings of the traffic study in more detail.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission reviews the information provided by the applicant and City Staff regarding the two conditions. If the Planning Commission finds the information satisfies the original concerns noted by the conditions, Staff recommends the Planning Commission revises the conditions of the October 14, 2016 Preliminary Site Plan approval indicating these conditions have been addressed. The revised conditions will be included in the Development Agreement, which will be used for the future reviews of development plans for the project.

Mr. Judkins reiterated that there was some public comment during a previous meeting where residents stated this intersection is already operating at full traffic capacity. He asked Mr. Ludwig if this intersection could support the additional traffic that this project will create.

Keith Ludwig, City Engineer, explained that the traffic study done on this intersection indicated that it is currently operating well below maximum capacity. There will not be any traffic issues that result from this new project.

Lisa Garner, City Attorney, gave an update on the easement located on the property. She pointed out where the easement falls on the property and explained that it represents an agreement between adjacent properties which allows vehicles to freely travel back and forth between parcels.

There was no further discussion regarding this item.

**MOTION:**

Mr. Judkins moved that, *“Based on the information provided by the applicant and staff addressing the Planning Commission’s original conditions regarding the access easements and traffic impact for the proposed redevelopment of the Union Woods property, I move that we revise the conditions of the Preliminary Site Plan approval for the Union Woods Project located at 7090 South Union Park Avenue. All conditions of the Planning Commission’s October 14, 2016 Preliminary Site Plan approval shall remain with the following exceptions:*

- 1. Conditions #17 and #20 shall be eliminated.*
- 2. A condition shall be added stating, ‘A requirement to restripe the thru and left and right turn lanes on the access road to Union Park Avenue shall be included on the final site plan’.*”

Mr. Liedtke seconded the motion. A roll call vote was taken.

Mr. Wallin     Yes  
Mr. Judkins    Yes

Mr. Liedtke Yes

Motion carried unanimously.

**MINUTES**

**3. REVIEW AND APPROVE MINUTES OF FEBRUARY 8, 2017; AND MARCH 22, 2017**

The minutes of February 8, 2017 and March 22, 2017 were tabled to the next meeting.

**ADJOURN:**

Mr. Liedtke moved to adjourn at 9:16 PM.



Nicole Selman  
CD Administrative Assistant