

Provo City Planning Commission Report of Action

Application Type: Project Redevelopment Option

Hearing Date: December 9, 2009

Agenda Item: 4*

Applicant: Gary maxwell

Coordinator: Matthew Taylor

Casefile: 09-0007PRO

Parcel Serial #: 05:082:0001-0006

Neighborhood: Joaquin

Zone: RC (Residential Conservation)

General Plan : Residential

Acreage: 0.94

New Res. Units: 77

Proposed SLU: 1150 – Apartments High Rise

Development Agreement Required: Referred to City Council Attorney

***City Council Action:** None

Request

Gary Maxwell requests approval of The Isles Project Redevelopment Option (PRO), generally located at 253 E. 700 N.

a) Preliminary plan approval for 77 batching singles apartments (four singles per unit) on 0.94 acre;

b)* Amend Chapter 14.50 (PRO), Provo City Code, to create The Isles PRO zone;

c)* Amend the zone map from the RC (Residential Conservation) zone to The Isles PRO zone.

Planning Commission Action

Continue the application up to 90 days.

Motion by Roy Peterman, second by Coy Porter. In favor – 6:0 (Bird, Boshard, Madsen, Monnahan, Peterman, Porter). Jeff Ringer was present as Chair.

FINDINGS/BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission continued the above item to allow the applicant to reconsider the proposed density, parking ratio and parking management for the proposed project.

Summary of Meeting

STAFF PRESENTATION

The Planning Commission Staff provided a summary of the facts, analysis, conclusions, and recommendations as outlined in the Staff Report. Staff provided the following additional information to the Planning Commission:

- The North Joaquin Parking Permit Program will be effective September 1, 2011. There are no additional triggers to put this program into effect.
- As part of the Rental Dwelling Licensing ordinance, rental owners are required to provide on-site parking to accommodate those tenants that have cars or they rent to tenants without cars. From testimony in this hearing and visual evidence in the neighborhood, this rule is not being followed.
- Staff believes that the former SCAMP vision document and Transit-Oriented Development goals and ideals aligned with each other.

Other Department Issues Noted

Issues with groundwater, off-site storm drainage, and sewer systems have been resolved by the Public Works Department. See the Coordinator Review Committee Analysis for the project contained in the Staff Report for detailed issues from other departments

APPLICANT PRESENTATION

The applicant, Gary Maxwell, presented the following to support the application:

- If bus-rapid transit is not in place by the completion of FrontRunner, UTA will place a bus route along 700 North connecting to the transit center, downtown and mall.
- Alpine Village was rated a grade A by the Daily Universe, which has 77% parking per person. 103 students in Alpine Village have not requested on-suite parking stickers. The complex is 93% full and there is not a parking problem.
- Adjacent to campus and closer than all other projects with parking reductions.
- Those that do bring cars will pay for a pass and be designated a parking space. Those without cars would sign that they didn't have possession of a car while at school. If found in violation by management, they would be required to vacate the premise and still be required to fulfill their contract or sell it.
- In response to public input the applicant iterated that he was not seeking any approval to place cars on the street and that they would rigorously internally enforce parking within their own management, CC&Rs and other tools.

PUBLIC INPUT

Neighborhood Meeting

A neighborhood meeting was held on Thursday, November 9, 2009. Kurt Peterson, Joaquin Neighborhood Chair, reported the following:

In regards to Mr. Maxwell's project the only concern expressed by the neighborhood was regarding inadequate parking for the density. Mr. Maxwell wants a parking ratio below what the neighborhood is comfortable with (65%). The neighborhood voted unanimously in opposition to that. A very slim majority were willing to support the project if the parking ratio were increased to 85%. With a 100% parking ratio--he got unanimous support. The plan is good, the design is good, and it is definitely in the right place.

Public Input Received After Staff Report Publication

- Joe Linfo, who owns a housing complex in the vicinity, telephoned staff to express that he is not against the project but that he would like to see it approved with a one parking space per bed ratio and not interfere with on-street parking with adjacent properties.

Public Input During Commission Hearing

- Joaquin Neighborhood Chair, Kurt Peterson, stated that parking has become the ultimate issue for residents and student residents. Those in attendance unanimously were against the project as proposed for parking reasons. They like the design, amenities and location., and would unanimously support a project with a one parking space to bed ratio. Believes that students may come to campus without a car but doesn't believe that it will stay that way.

Because there is not available on-street parking, currently, that the on-street parking problem will be compounded.

- Sudan Bishop, resident of Orem, Mountain View Property Management . The parking permit program is hard to enforce, centered negative impact on student that spend money and go to school in Provo. Permit program will force students not to bring cars. Students currently renting less-expensive units and have vacant higher-priced units available, which has never happened before. Please consider if there is a need for extra housing. Does not believe that there is. If you do desire to approve additional housing, please require one space per bed, so that the applicant's students are not competing for on-street parking that student's in his complex desperately need.
- Helen Gurley, resident of Provo, owns a facility in the area. Very concerned that this project will affect her ability to rent to students because she does not have enough of her own on-site parking and her residents park on the street. Students walk to campus and drive for everything else.

SUMMARY OF PLANNING COMMISSION QUESTIONS TO APPLICANT AND/OR STAFF

Planning Commission Questions

- Did you suggest that the pricing structure included whether the student has a car or not? Applicant: The developer indicated that was correct and reexplained the situation. A space will be rented for \$30-40 per month.
- Do you kick the student or the car out? Applicant: They would have to choose.
- What would you do if you reached the saturation point and units were vacant because they couldn't bring a car? Developer: If we could not find students without cars to rent our units then that is the economic risk we take.
- You will not write car-contracts above the available number of stalls? Applicant: Correct, and we will assign an individual stall to a person. No one has ever done this before. Landlords typically give out too many parking stalls
- Is the groundwater issues resolved between the applicant? Planning Staff: The issues have been resolved between the applicant and public works department.
- What about an emergency situation, such as a fire, in the parking garage? Applicant: The structure will be fire sprinkled and does not accommodate fire truck access.
- In comparison to the Joaquin Village project, what amenities are you proposing to offset the increase in density. Applicant: Managers Unit, 2800 sq. ft clubhouse, courtyard, no commercial and no pool because of site constraints.
- Why no ground-floor commercial here? Developer: This area is

not conducive for ground-floor commercial.

- Has the City been able to effectively regulate parking via CC&Rs or development agreements. Staff: There are two methods to control parking. Red-curb all streets or institute a parking permit program. Do not know how to enforce internal, private parking management rules for private properties. Parking permit programs are the best approach.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Consider provisions that protect visitor parking from being contracted out for residents.
- Roy Peterman: Only one way to control this; owners need to be responsible to enforce this, as part of an annual audit and through agreements with the City. This area does need redevelopment and adequate responsibility. BYU should not give up their land for parking for private functions. Some property managers manage parking better than others. Reduced setbacks are aligned with the vision of the South Campus Area Master Plan.
- Coy Porter: How do we manage density? When do we say that certain projects do not get a reduction? Need to set a parking standard that the area can live with and stick to it. We are constantly dealing with requests to modify parking standards.
- Ron Madsen: We need to decide if we want a guaranteed parking space per unit or are we concerned with bringing less cars to school.
- Marian Monnahan: I have too many concerns related to parking. It is a good project, but too dense.
- Brian Bird: Proponent of property rights. He has a good management plan. Would vote in support of the project as he believes the developer would manage the parking sufficiently and because the North Joaquin Parking Permit program will be in effect when this project is finished. Recommends that the neighborhood pursues the South Joaquin Parking Permit Program to mitigate and spillover from the north.
- Ron Madsen: Supportive of the applicant's parking management plan. Parking is removed from 700 North and all other parking is already competed for.
- Coy Porter: We represent good planning and representing the neighborhood. We are giving up a lot of standards. Not against the project but we need to decide what the numbers should be. We are continually reducing standards for no apparent additional benefit. Need to find some compromise in some density.
- Pam Boshard: Would vote to deny the project, as presented. We do not have a need for this many units to be built. A great place for density but this place is already very dense. Alpine Village is

not a good project to compare this project to because of the situation.

Report of Action Approval

This report contains an accurate summary of the vote and determination by the Planning Commission and an accurate summary of the proceedings of the hearing.



Planning Commission Chair



Director of Community Development

Attachments

1. Official Notice to Applicant
2. Proposed Ordinance Amendments
3. Zone Map Amendment Legal Description

Official Notice to Applicant

APPLICATION EXPIRATION

Conditional Use Permit

A conditional use permit which has not been utilized within twelve (12) months from the effective date thereof shall expire and shall become null and void unless such time period is extended by the City (see 14.02.060, PCC).

Reversion of Zoning

Substantial action shall be taken to obtain needed additional approvals and begin construction authorized by such approvals within one (1) year after the approval of a PRO zone. If a final project plan has not been approved within one (1) year after a PRO zone has been applied to a specific property, action shall be initiated to rezone the property to the zone previously existing on the property or such other zone as may be deemed appropriate by the Municipal Council. (14.50.090, PCC).

Project Plan

If within twelve (12) months after an application has been approved, the applicant fails to exercise development rights authorized by such approval prior to the expiration date, the approval and associated development rights shall expire (see Sec. 15.01.04, PCC, for exceptions).

APPEAL

Decisions regarding the approval or denial of an application by the Planning Commission – or as delegated by them to staff – may be appealed to the Board of Adjustment by filing a written appeal and application with the Community Development Department within fourteen (14) days following the date of the hearing per the requirements of Section 14.05, Provo City Code (see 14.05.040, PCC).

ADDITIONAL INFORMATION

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information.

*FINAL DECISION MAKING BODY

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

PERMITS

Permits must be obtained prior to any site grading, site improvements or building construction.

Attachment 2 – Proposed Ordinance Amendment

Chapter 14.50(XX). Isles Project Redevelopment Option Zone.

14.50(XX).010.	Purpose and Objectives.
14.50(XX).020.	Compliance with Titles 14 and 15 Required.
14.50(XX).030.	Permitted Uses.
14.50(XX).040.	Lot Area.
14.50(XX).050.	Lot Width.
14.50(XX).055.	Lot Depth.
14.50(XX).060.	Lot Frontage.
14.50(XX).070.	Lot Area Per Dwelling Unit.
14.50(XX).080.	Yard Requirements.
14.50(XX).090.	Projections into Yards.
14.50(XX).100.	Building Height.
14.50(XX).110.	Distance Between Buildings.
14.50(XX).120.	Permissible Lot Coverage.
14.50(XX).130.	Parking, Loading and Access.
14.50(XX).140.	Project Plan Approval/Design Review.
14.50(XX).150.	Other Requirements.
14.50(XX).160.	Notice of Parking and Occupancy Restrictions.

14.50(XX).010. Purpose and Objectives.

The Isles Project Redevelopment Option (PRO-A-XX) zone is established to provide a high density multiple residential student-oriented housing located within the South Campus Planning Area as identified in the General Plan. The densities permitted by this zone are intended to encourage redevelopment of land for residential uses where property values are high and demolition may be necessary. The uses typically permitted in this zone are apartments, batching apartments, and limited commercial and office uses.

14.50(XX).020. Compliance with Titles 14 and 15 Required.

In addition to the development standards contained in this Chapter, areas zoned to the Isles PRO zone shall comply with the development requirements in Titles 14 and 15, Provo City Code, except as expressly modified by this chapter.

14.50(XX).030. Permitted Uses.

- (1) Those uses or categories of uses listed herein, and no others, are permitted in the Isles PRO zone.
- (2) All uses contained herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four (4) digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four (4) digit number in which the last one or two digits are zeroes.
- (3) All such categories listed herein and all specific uses contained within them in the Standard Land Use Code shall be permitted in the Isles PRO zone, subject to the limitations set forth in this Chapter.
- (4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted in the Isles PRO zone:

Use No.	Use Classification
1150	Apartments (high rise)
1211	Batching apartments (maximum of four [4] individuals per unit)

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the Isles PRO zone, provided they are incidental to and do not substantially alter the character of a permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

(a) accessory buildings such as garages, carports, bath houses, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with, and incidental to, a principal use or structure;

(b) swimming pools and incidental bath houses subject to the standards of Section 14.34.210, Provo City Code;

(c) storage of materials used for construction of a building, including the contractor's temporary office, provided that such use is on the building site or immediately adjacent thereto, and provided further that such use shall be permitted only during the construction period and thirty (30) days thereafter; and

(d) household pets, provided that no more than two (2) dogs and two (2) cats six (6) months of age or older shall be kept at any residence or commercial establishment at any time. Nothing herein shall be construed as authorizing the keeping of any animal capable of inflicting harm or discomfort or endangering the health and safety of any persons or property.

(6) Conditional Uses. No conditional uses, other than home occupations as regulated by Ch. 14.41, are permitted in the Isles PRO zone).

14.50(XX).040. Lot Area.

The minimum area of any lot or parcel of land in the Isles PRO zone shall be 0.90 acre.

14.50(XX).050. Lot Width.

Each lot or parcel of land in the Isles PRO zone shall have a minimum average width of one-hundred ninety (190) feet.

14.60(XX).055 Lot Depth.

Each lot or parcel of land in the Isles PRO zone shall have a minimum lot depth of one-hundred ninety (190) feet.

14.50(XX).060. Lot Frontage.

Each lot or parcel of land in the Isles PRO zone shall abut on a public street for a minimum distance of one-hundred ninety (190) feet.

14.50(XX).070. Lot Area per Dwelling Unit.

(1) The lot area per dwelling unit in the Isles PRO zone shall be one (1) dwelling unit for each five hundred twenty (520) square feet of lot area.

(2) When a lot area per dwelling unit calculation results in a fraction, the number of allowed units shall be rounded to the nearest whole number.

14.50(XX).080. Yard Requirements.

The following minimum yard requirements shall apply in the Isles PRO zone:

- (1) Front Yard. Each lot or parcel in the Isles PRO zone shall have a front yard of at least seven (7) feet.
- (2) Side Yard. Except as provided in Subsections (3), (4), and (5) of this section, each lot or parcel of land in the Isles PRO zone shall have a side yard of at least five (5) feet on each side lot line.
- (3) Side Yard - Driveway. See Section 14.37.100, Provo City Code.
- (4) Rear Yard. Each lot or parcel of land in the Isles PRO zone shall have a rear yard of not less than seven (7) feet.

14.50(XX).090. Projections into Yards.

- (1) The following structures may be erected on or project into any required yard;
 - (a) fences, walks, stairways and access ramps in conformance with the Provo City Code and other City codes and ordinances;
 - (b) landscape elements including trees, shrubs, agricultural crops, and other plants; and
 - (c) necessary appurtenances for utility service.
- (2) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet:
 - (a) cornices, eaves, belt courses, sills, buttresses, or other similar architectural features;
 - (b) fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part; and
 - (c) stairways, balconies, door stoops, fire escapes, awnings, and planter boxes.

14.50(XX).100. Building Height.

No lot or parcel of land in the Isles PRO zone shall have a building or structure including parking structures which exceeds a height of fifty-five (55) feet, except as may be permitted by Section 14.31.060. Chimneys, flagpoles, towers and similar structures not used for human occupancy are excluded in determining height.

14.50(XX).110. Distance Between Buildings.

The minimum distance between buildings on a lot or parcel of land in the Isles PRO zone shall not be less than that required by the International Building Code.

14.50(XX).120. Permissible Lot Coverage.

- (1) In the Isles PRO zone, all buildings and structures shall cover an area of not more than fifty (50) percent of the lot or parcel of land upon which they are placed.
- (2) Subgrade parking structures shall not exceed 4.5 feet above street curb on any frontage. Subgrade parking structures shall not be considered as part of the lot coverage but shall have additional review by the Planning Commission or its designee to assure the parking structure is screened and buffered from adjacent property and public view.

14.50(XX).130. Parking, Loading, and Access.

(1) Each lot or parcel of land in the Isles PRO zone shall have on the same lot or parcel, or adjacent lot or parcel located in the same zone, automobile parking sufficient to comply with the following requirements:

- (a) resident parking provided at the rate of 0.54 parking space per bedroom; and
- (b) visitor parking provided at a rate of 0.25 space per dwelling unit. Visitor parking spaces shall be designated and posted with signs to prohibit resident parking therein.

(c) All other regulations of Chapter 14.37, Provo City Code, shall apply, except that subgrade parking structure spaces may be 8.5 x 18 feet in dimensions.

14.50(XX).140 Project Plan Approval/Design Review.

See Sections 15.03.300 and 15.03.310, Provo City Code.

14.50(XX).150. Other Requirements.

(1) Signs. Unless otherwise prohibited by law, signs of the type and description listed below, and no others, may be placed and maintained in the Isles PRO zone:

- (a) one (1) sign or name plate not exceeding fifty (50) square feet placed upon a building or ornamental masonry wall which identifies the name and/or address of an apartment structure or complex, a professional office complex, or a mixed apartment/office complex;
- (b) one (1) directory sign identifying the names and locations of tenants occupying the premises which does not exceed ten (10) square feet and is not placed within a front yard area; and
- (c) two (2) temporary signs with a maximum area of six (6) square feet, each pertaining to the sale, lease or rent of the particular building, property, or premises upon which displayed.

(2) Landscaping. The landscaping requirements set forth in Chapter 15.20, Provo City Code, shall apply with the following exceptions:

- (a) Hardscape shall constitute not constitute more than 20% of the site area.
- (b) Vegetative materials shall constitute a minimum of 10% of the site area.
- (c) Interior passive/active recreational space, such as a club house, shall be provided at no less than 5% of the site area.

(3) Trash Storage. No trash storage shall be permitted outside a subgrade parking structure.

(4) Fencing Standards. Structural fences six (6) feet or less in height shall not require a building permit. Structural fences over six (6) feet in height shall require a building permit from the Building Inspection Division. A structural or vegetative fence shall not create a sight distance hazard to vehicular or pedestrian traffic as determined by the Provo City traffic engineer.

(a) Front Yard. Solid walls, fences, hedges or screening materials which are sight obscuring may be built to a maximum of four (4) feet in height in any required front yard perimeter. Such walls, fences, hedges or screening materials may slope upward to connect with a higher side yard fence. The length of a sloped fence section shall not exceed one (1) section or a maximum of five (5) feet. Walls, fences, hedges or screening materials which are not sight obscuring (at least 50% open) may be built to a maximum of six (6) feet in height in a front yard.

(b) Side Yard. Solid, sight obscuring fences or walls and non-sight obscuring fences (at least 50% open) may be built to a maximum height of six (6) feet .

(c) Rear Yard. Walls and fences in a rear yard may exceed six (6) feet provided a building permit is first obtained from the Building Inspection Division prior to construction.

(d) Corner Lots. A fence not more than six (6) feet high may be constructed in a side yard adjacent to a public street on a corner lot, provided it does not extend into the clear vision area of a corner lot as defined by section 14.34.100, Provo City Code.

(e) Entryways. Entry treatments to private driveways or subdivision development entrances may not exceed six (6) feet at the highest point, except lamps on pillars, and shall comply with the provisions of Section 14.34.100, Provo City Code. A pillar may extend up to eighteen (18) inches above the allowable height of a fence provided each pillar is no less than six (6) feet from an adjoining pillar, measured face to face.

(f) Grade Differences. Where there is a difference in the grade of the property on either side of a fence, wall, or other similar structure, the height of the fence shall be measured from the natural grade of the property upon which it is located.

(g) Retaining Walls. Where a retaining wall protects a cut below or a fill above the natural grade and is located on the line separating a lot or parcel, such retaining wall may be topped by a fence, wall, or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.

(5) Public Utility Easements. Easements required by Section 15.03.220(7) and 15.03.310(3)(a)(viii) may be reduced or eliminated at the discretion of the City Engineer.

14.50(XX).160. Notice of Parking and Occupancy Restrictions.

(1) Prior to the issuance of a building permit for any multiple residential project over two (2) dwelling units, a contract shall be entered into between Provo City and the developer agreeing to a determined occupancy based on a given number of parking spaces. This contract shall be recorded with the Utah County Recorder's office and shall run with the property. A copy of a recorded deed for the property in question shall also be submitted prior to the issuance of a building permit which indicates the maximum allowable occupancy as a deed restriction. Attached to the deed shall be a document that separately lists the occupancy according to Provo City Code, the previously mentioned deed restrictions, and any other use restrictions pertaining to parking and occupancy such as restrictions of use as noted in condominium covenants. This document shall be signed, dated, and notarized indicating that the owner acknowledges and agrees to all restrictions and regulations stated on the deed and attachments.

(2) Prior to the issuance of a certificate of occupancy for new multiple residential dwelling units, a permanent notice shall be placed on the electrical box within each unit indicating the maximum allowable occupancy of the unit based on the approved occupancy consistent with the recorded parking and occupancy contract. This notice shall be a 6" X 6" metal or plastic plate that is permanently attached to the electrical box with minimum ½ inch engraved letters.

(3) Upon submittal of these documents any violation to the restrictions and regulations noted therein shall be considered a misdemeanor offense

and shall be subject to criminal action as provided in Section 1.03.010,
Provo City Code.

Attachment 3 – Zone Map Amendment Legal Description

LEGAL DESCRIPTION

COMMENCING AT A POINT LOCATED EAST 192.65 FEET FROM THE SOUTHWEST CORNER OF BLOCK 6, PLAT "D", PROVO CITY SURVEY OF BUILDING LOTS; THENCE NORTH 198.00 FEET; THENCE EAST 206.25 FEET; THENCE SOUTH 198.00 FEET THENCE WEST 206.25 FEET TO ME POINT OF BEGINNING.

AREA = 0.938 ACRES

BASIS OF BEARING: WEST ALONG THE SOUM LINE OF BLOCK 6, PLAT "D"

PROVO CITY SURVEY OF BUILDING LOTS.