

**CITY COUNCIL MEETING**

Tuesday, November 17, 2015 7:00 p.m.  
Community Recreation Center  
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Mayor Gary Gygi, Presiding  
Council Members: Trent Augustus, Rob Crawley, Mike Geddes, Jenney Rees,  
Daniel Zappala  
David Bunker, City Manager  
Chandler Goodwin, Assistant City Manager  
Jeff Maag, Public Works Director  
Colleen Mulvey, City Recorder  
David Shaw, City Counsel  
Courtney Hammond, Transcriptionist  
Others: Lt. Sam Liddiard, Loyal Hulme, Donald Steele, Cory Shupe, Doug  
Young, Melissa Willie, Russ Smart, Darren Lowder, Ben Bailey, Stephanie  
Martinez, Angela Johnson, Craig Clement, David Driggs, Marisa Wright, Fire  
Chief Freeman, Bruce Baird, Ryan Hales

**COUNCIL MEETING**

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:00 p.m. by Mayor Gygi.

Invocation given by C. Crawley

Pledge of Allegiance led by Cole Lucas

2. Approval of Meeting’s Agenda

**MOTION: C. Rees—To approve agenda as is.** Seconded by C. Augustus.

Yes - C. Augustus  
C. Crawley  
C. Geddes  
C. Rees  
C. Zappala Motion passes.

3. Public Comments:

Julie Sessions: Ms. Sessions thanked the council for the time they have put into the Rosegate proposal. She asked them to consider the following design guidelines: that the SC-1 zone was established to provide an area that is primarily commercial. It is intended that it be a harmonious group of commercial shops to better balance the tax base and provide employment opportunities and commercial goods. The mixed use office retail is designed to accommodate lower intensity. The commercial area should preserve the small town atmosphere of the city. Her children walk and ride bikes to Walmart. She would not be comfortable with that if Rosegate were there. It is important for the council to recognize that it does not represent Blu Line, but the entire community. She has heard of lawsuit threats. The council should not be bullied. She would be

willing to donate towards a lawsuit. The property would be taxed at a lower rate than commercial.

CONSENT AGENDA

4. Minutes from the October 20, 2015 City Council Meeting

**MOTION: C. Rees—To approve the consent agenda.** Seconded by C. Zappala.

Yes - C. Augustus  
C. Crawley  
C. Geddes  
C. Rees  
C. Zappala Motion passes.

CITY REPORTS AND BUSINESS

5. City Manager

BYU basketball night is January 30 vs. Pepperdine. Discount tickets will be available.

Jr. Jazz signups will go through November 30.

Ski bus has 38 people committed, 12 more spots are available.

Miss Marisa Storytime is tomorrow at 11 a.m.

A weekly update email comes out every Monday or Tuesday. To get these emails, residents should let the city know, so their address can be added to the list.

6. Mayor and Council

C. Rees: The Planning Commission finalized recommendations for the Design Guidelines.

Mayor Gygi: The finance committee met. There will be some budget amendments proposed in the future.

SCHEDULED ITEMS

7. **Review/Action on the Canvass of the Election Returns for the 2015 Municipal General Election**

Colleen Mulvey: The County Clerk’s office has issued an elections summary report. The county administered the election because of their proposition question on the ballot. Final numbers were released today.

The city council members, except Jenney Rees and Mike Geddes, canvassed the election results.

**MOTION: C. Zappala—To accept and certify the results of the 2015 Municipal General Election and canvass, and declare 4-year term City Council candidates Jenney Rees, Mike Geddes and Ben Bailey to be elected.** Seconded by C. Augustus.

Yes - C. Augustus  
C. Crawley  
C. Zappala Motion passes.

Final vote tallies were:

Brian Miller 196

Angela Johnson	1,052
Paul Sorenson	704
Jenney Rees	1,275
Mike Geddes	1,098
Ben Bailey	1,074

**8. Review/Action on Preliminary Plans for Rosegate at Cedar Hills Development, located at approximately 4600 West and Cedar Hills Drive in the SC-1 Commercial Zone**

Bruce Baird, counsel for the developer, stated that this is unusual because the staff report doesn't list any adverse issues with this development. Normally the developer would have responded to adverse issues noted by Planning Commission or staff. The Planning Commission gave a 4-1 recommendation stating that the project was in full compliance. He has nothing but commendation for the city staff. He has asked for a statement listing any ways that the project is not fully compliant. He has not received any statement, just one strange report about parking. This is a conditional use, which is an administrative rather than a legislative decision. Some people take it as a threat, but he is just asking that the council comply with the law. The law is clear. He has never been told any way that the development does not comply to applicable state law or city code. There is clear case law. This council has already voted that congregate care is substantially similar to a listed conditional use.

Cory Shupe stated that in early 2013 the first application for a congregate care facility was submitted. The city asked the developers to consider the commercial area holistically, including the city's portion of the land. Blu Line came up with a grand concept which included splash pads, movie theaters, etc., but that was largely on city-owned land and never under their control. The Amsource property was improved without a needed access road that will ultimately be on the Smart property. In June 2014 after a large public outcry, the developers asked that the proposal be tabled. They came back with a proposal for assisted living, because it was too difficult for the city and residents to understand congregate care. At the first meeting back with assisted living, the Planning Commission and other residents asked them to reconsider congregate care. On December 2, 2014, Jody Hoffman from the Utah League of Cities and Towns made it clear that if it was decided that congregate care and assisted living as substantially the same, then it would need to be treated that same. The city council then issued a finding of fact that congregate care is substantially the same as assisted living. The developers proceeded in good faith with congregate care. They would have continued as assisted living without that finding of fact. The developers then asked for a finding of fact to see if they could overlap into another zone. There was no response. The developers did not overlap. The building is entirely within the proper subzone. When the Planning Commission met to approve a plan, they did not like the building. A committee of planning commissioners, city council members and staff met with the developers to come up with the current plan. The plan has open landscaping. This is a bigger facility than the Charleston, but it is not more dense. There are two commercial outbuildings. There has been a petition circulated based on non-factual statements.

Ryan Hales with Hales Engineering stated that he looked at parking. He completed a traffic impact study from the worst case scenario. Even though the manual recommended 4.1–4.8 stalls

per unit, Hales has recommended 1 stall per unit. At similar facilities with 1 stall per unit, there are no parking problems.

Doug Young stated that Ron Mortimer of Horrocks Engineering said that he would be in full support of the Hales traffic study.

Bruce Baird passed out a very brief legal analysis. The recent claim that the parking standard for single family applies in this area, is not correct. The code has no standards on parking. It cannot be a reason to turn it down. These developers have done everything needed to comply with the code. The City Council cannot ask for more now.

Public Comment:

Darren Lowder: Mr. Lowder stated that he is not upset that it is another congregate care facility; he is upset about the number of units. It seems to be all coming down to a technicality.

Marisa Wright: Ms. Wright stated that this is a hard decision. No matter what is done tonight, people will be mad. She will not be mad because she knows the council has done its due diligence and wants what is best for Cedar Hills.

Council Discussion:

Loyal Hulme, counsel for the city, stated that this meeting and action is required by law because the applicants are exercising the right to call for hearing tonight. The parking report was late because that was the soonest the city could get it to them. Because of the tight time frame that Horrocks Engineering was engaged, their spokesman was not able to be here tonight. Substantially similar is not the same as identical. Parking is one of the ways that assisted living and congregate care is not the same. Titles can be arbitrary. Horrocks looks beyond the titles. The Horrocks study was ordered after the Planning Commission decision in order to give the City Council a more thorough analysis.

Bruce Baird stated that it has been implied that the developer is pushing this through, which is not the case. State law says that you can't arbitrarily cut density. Compliance with the law is not a technicality; it is what the City Council has sworn to do.

Mayor Gygi stated that there are three possible decisions: approve the project as is, deny the project, approve the project with conditions.

C. Geddes stated that he has been involved with this project for years. He was on the Planning Commission when it first came in. As a city councilmember, he has not voted for anything on this project, except the finding of fact. Blu Line has done a tremendous job of listening to council and resident feedback and making change, though it is clear that they make the changes they want to make and listen to what they want to hear. Staff recommendations are only recommendations. Likewise with the Planning Commission recommendations. The code has a lot of ambiguity. He likes many aspects of the project. The overall intensity and density on this project has been ignored. Just because a definition of congregate care was discussed, does not mean that the council agreed to that definition. Substantially similar doesn't mean treated the same. The council can have traffic studies peer reviewed. There are some positives to this

project. There are probably more taxes that would come to the city through this facility than sales tax through commercial stores. But there are also negatives.

C. Augustus stated that the city doesn't own all of the 11 acres down there. The city owns 8.9 acres. His term is done on the council in January. He has made tough decisions, but this is one of the hardest. This is a lasting decision with a long-lasting impact. The code is ambiguous. He has to take the information available and make the best out of it.

C. Crawley stated that he is a big proponent of individual rights and property rights. He believes in the rights of cities to zone. The zoning that cities do is to separate commercial and residential districts. He sees this as high density residential in the commercial area. The vote was 3-2 that congregate care is substantially similar to assisted living. The developer would need to make the case that it is congregate care, because he just sees the development as high density residential, rather than congregate care.

C. Rees stated that this council has been open to discussing the plan and giving feedback. She feels it is disingenuous for the developers to claim ambush. When the vote for finding of fact was made, the council asked for clarification on services offered. There were no answers. Congregate care is substantially similar, but the developers haven't met the requirement for congregate care.

C. Zappala stated that he agrees that the duty of council is to comply with the law. It can't take into account public clamor. He has spent many hours researching the project and understanding its impact on the community, as well as what conditions can reasonably be imposed. He asked that his analysis be entered into the record (See attached Exhibit A). He believes that there is adequate finding of fact to deny the project. There are also some conditions to mitigate the impact, detailed in his document.

Cory Shupe read the definition for congregate care that included common space that maximizes residents' potential for independent living. Direct services will be provided or made available, and may be located on or off site. Provided services may include meals, housekeeping services, transportation, planning recreational and social activities and adult day care. It is the definition used in Herriman and in Draper.

Bruce Baird stated that according to state law any ambiguity in code should be construed in favor of the landowner. Appropriate medical care will be provided on an a la carte basis. There will be a gathering room as well as an outdoor gathering place. The facility will not be state licensed. There will be a café, open all day to residents that will be operated by a third party.

C. Rees stated that since the city council made a finding of fact that congregate care is substantially similar to assisted living, she would like to look at possible conditions to mitigate impact. Granting the same density to Rosegate as it does to Charleston may not be fair, since the use of the building already increases the intensity of use.

C. Zappala stated that he made two unit calculations. Based on density, the maximum units should be 165; based on traffic the maximum would be 103. The problem with a la carte services is that it can become identical to an apartment building. For it to be considered congregate care,

he feels that the services should be on site. The no more than 50% residential use condition complies with code. The 1.4 parking stalls per unit comes from the Horrocks parking study. The no outdoor overnight parking will help mitigate impact. He would like to see covered parking along the south side.

C. Augustus stated that in previous iterations there was a path around the entire acreage that would add to the park-like, pedestrian feel. He supports giving the same density as Charleston. This has been a three year process, consulting with experts and analysis. After all this, he doesn't see that the council can deny it. He feels that these conditions adequately mitigate impact.

C. Rees stated that she likes the condition that the phases of development include both commercial and residential development. She would like to see a condition that no one under the age of 40 be allowed to live in the facility. If there is a time in the future when the developer can't meet the imposed conditions, then the existing owner must return the site to how it currently stands. She feels that the best density number is 165.

C. Augustus stated that if an age minimum is to be imposed, 25 makes more sense.

**MOTION: C. Zappala—We recommend that the City Council approve the Rosegate Development site plan, engineering plans, architectural elevations, drainage plans, lighting plan, traffic study and all other engineering drawings related to the Rosegate Development located at 4600 West Cedar Hills Drive subject to the following conditions: (1) In accordance with residential uses in Planned Commercial Development Projects, the Rosegate Development should be “ancillary” to the commercial uses on the project. Accordingly, the residential aspect of the development should not constitute more than 50% of the total project uses and such residential use should otherwise be congruent with the intent of the SC-1 Zone, General Plan and Design Guidelines as set forth in Concern 1 that I list in my letter.**

**(2) The residential uses in the Rosegate Development should be composed of two or three separate buildings. This is in keeping with the requirement in the Development Guidelines that “the development must be characterized by a harmonious grouping of commercial stores and shops and essential ancillary uses, architecturally designed and functioning as an integrated unit,” as discussed in Concern 1.**

**(3) The Rosegate Development should have commercial uses that generate significant on-site sales for buildings that are adjacent to Cedar Hills Drive and 4700 West. This is in keeping with the Development Guidelines and concerns discussed in Concern 1.**

**(4) The Rosegate Development should be limited to no more than 165 residential units. Currently, the densest residential zone in the City (the PR 3.4 Zone) allows for only 6 units per structure. The Rosegate building is an anomaly in the City with a proposed 291 units in the structure. Any more than 165 units on the subject property would be irresponsible planning practices. This condition will ensure that the property has an intensity that is less than the uses in the Neighborhood Retail sub-district, a requirement listed in the Design Guidelines. In addition, this condition must take into account the reality that there is little public transportation in our area, so residents will need to drive regularly, causing additional intensity far beyond an assisted living building and even more than a typical senior housing development that might be more conveniently located to nearby shops and**

services. The Rosegate Development should be compatible with the surrounding properties and the City's intent to create a viable, mixed use commercial center for the reasons described in Concern 2 and Concern 3.

(5) The Rosegate Development must include on-site services for the convenience of its residents, so they can age in place. These services should be provided as direct services, provided directly by management of the housing facility. These services should include a restaurant that provides three meals a day seven days a week; home health care services from qualified professionals, including help with medications, bathing, dressing, and other hospice needs; physical therapy; other routine health care services; fitness classes; regular social activities; and a shuttle to nearby destinations that are too far for walking. This will ensure the development qualifies for a conditional use that is "substantially similar to" assisted living, as discussed in Concern 4.

(6) The Rosegate Development must include 1.4 parking stalls per residential unit. The applicant's description of the proposed use is more closely akin to a senior apartment complex than an assisted living center. Accordingly, for the reasons discussed in Concern 4 and Concern 5 of my letter, the number of residential units must be reduced, in order to accommodate active senior living.

(7) Outdoor overnight parking of vehicles shall be prohibited in areas adjacent to single family homes, with covered parking provided in these areas. This restriction is imposed in accordance with the City Council's powers to take reasonable steps to preserve the integrity of the General Plan and the intent of the mixed-use sub-district in the commercial zone, and to minimize effects on residents as discussed in Concern 5.

(8) In accordance with the Design Guidelines, the landscaping and open areas shall create a park-like atmosphere with linked pedestrian corridors designed to promote pedestrian activity. For the reasons discussed in Concern 6 of my letter, the landscaping needs to promote integration with the surrounding property uses and not limit the open-space and pedestrian traffic areas to the interior courtyards of the facility. The landscaping should provide open walkable space between separated buildings. Currently, the landscaping is not accessible to pedestrian uses from surrounding neighborhoods and is not linked in a way to create the pedestrian corridors and park-like environment required by the Design Guidelines.

(9) The Rosegate Development should be constructed in phases that include both commercial and residential development, consistent with the primary intent of the sub-district being a mixed-use development. The proposed phased construction is inappropriate because the primary purpose of the development is to place residential use in the heart of the City's commercial center, the commercial aspect of the development is ancillary to the overall development, the timing of the commercial portion of the development is uncertain, and for each of the other reasons discussed in Concern 7. This mitigates the potential impact of the city being left with a building purely residential in nature in a commercial zone. Commercial uses must have adequate parking, separate from residential uses.

(10) The Rosegate Development should be reduced in scale, size and intensity in order to mitigate the impacts on the City's public safety services. No more than 165 units should be permitted in the development for the reasons discussed in Concern 8, and in keeping with concerns listed in Concern 3 and 4.

**(11) Each residential unit shall be occupied by at least one resident that is 55 years of age or older, and there shall be no residents younger than 25. This mitigates the concern for traffic impacts and crowding in schools. For the reasons discussed in Concern 9, reasonable rental restrictions are required in order to prevent an erosion of the living accommodations and services available to the senior community.**

**(12) Lights in parking areas shall be mounted low to the ground in bollards, rather than on light poles. For the reasons discussed in Concern 10, reasonable restrictions are required in order to prevent light pollution for residents in neighboring single-family homes.**

**(13) If there is a time in the future where the owner feels they can no longer meet these conditions, then they must restore the site to how it currently stands.**

**(14) All review and approval of these conditions must be made by both the Planning Commission and this Council.**

Seconded by C. Rees.

C. Augustus suggested adding these conditions to the development agreement.

C. Rees stated that it is her understanding that the development agreement ends after construction is complete.

**AMEND MOTION: C. Augustus—To add that these conditions be in the CC&Rs and that lights in parking areas adjacent to single family homes should be low to the ground in bollards, rather than on light poles.** Accepted by C. Zappala and C. Rees.

C. Augustus stated that there should be a legal review.

**AMEND MOTION: C. Augustus—That all review and approval must be made by both the Planning Commission and this Council and prior to the review by Council the approved conditions must have legal review.** Accepted by C. Zappala and C. Rees

Vote taken by roll call.      Yes      -      C. Augustus  
C. Crawley  
C. Geddes  
C. Rees  
C. Zappala      Motion passes.

Mayor Gygi stated that an appeal can be made after the minutes are approved.

Break taken at 10:15 p.m.  
Reconvened at 10:21 p.m.

9. **Review/Action to Consider and Evaluate a Possible Resolution, Moratorium, and/or Ordinance Amendment to Address Possible Changes to the City's General Plan, Ordinances and/or Design Guidelines all as Related to the SC-1 Commercial Zone, Including but not Limited to Sections Related to the Neighborhood Retail Development, the Mixed-Use Office/Retail Development, Mixed-Use Office and its Sub-districts and other Related Provisions**

Mr. Hulme stated that this enacts a temporary land use moratorium. This does not affect any pending applications. It would only affect applications that come after tonight.

David Shaw stated that this is not a codified ordinance. It expires on its own term 180 days from now.

Mayor Gygi stated that a year a half ago he asked the Planning Commission to start reviewing and updating the Design Guidelines. This formalizes what has been taking place with their work and the work being done on the General Plan.

**MOTION: C. Augustus—Based upon compelling and on countervailing public interest recited in this ordinance as well as the need to ensure city code is precise, articulate and state of the art . . . I move for approval of ordinance 11-17-2015A and state that this motion does not affect any pending applications in that zone.** Seconded by C. Zappala. Vote taken by roll call

Yes - C. Augustus  
C. Crawley  
C. Geddes  
C. Rees  
C. Zappala Motion passes.

**10. Review/Action on Release of Durability for the Woodis Subdivision**

Jeff Maag stated that the Woodis subdivision has requested that the durability retainer be released. Staff has reviewed the request and recommends the council accept the subdivision infrastructure and release the retainer in amount of \$6,548.80.

**MOTION: C. Augustus—To approve acceptance of subdivision improvements for the Woodis Subdivision Improvements, and release the Durability Retainer in the amount of \$6,548.80.** Seconded by C. Geddes. Vote taken by roll call.

Yes - C. Augustus  
C. Crawley  
C. Geddes  
C. Rees  
C. Zappala Motion passes.

**ADJOURNMENT**

11. This meeting was adjourned at 10:26 p.m. on motion by C. Augustus, seconded by C. Crawley and unanimously approved.

Approved by Council:  
January 5, 2016

/s/ Colleen A. Mulvey, MMC  
City Recorder

## Exhibit A

From: Daniel Zappala

Council and Mayor:

As you are aware, the preliminary plans for the development of the Rosegate facility have been submitted to the City Council for review. Despite the numerous questions and concerns raised by the City Council on previous occasions with this developer, the Planning Commission gave a favorable review for the preliminary plans on August 18, 2015. As I have reviewed the plans and application materials with some of you, many of the concerns the council has expressed previously are still an issue with this development. These concerns relate to our general plan, zoning ordinances and design guidelines and whether the proposed development is in compliance with the City Code.

We have been advised previously that our Design Guidelines are incorporated into our City Code. Section 10-6A-4 states that “[t]he applicant, in preparing the design for a planned commercial development project, and the planning commission and city council, in conducting the reviews and approvals required by this title, shall be guided by the terms of this title and that certain document entitled “Guidelines For The Design and Review of Planned Commercial Development Projects.” Due to the way the City Code is drafted it incorporates the Design Guidelines, and therefore, a violation of the Design Guidelines is a violation of the City Code. My concerns with the Rosegate development pertain generally to its failure to comply with the city’s development intent in the SC-1 Zone as set forth in the General Plan, City Code and Design Guidelines. I also have specific concerns that relate to the size, scale, density, and intensity of the proposed Rosegate senior living facility, the open space planning, parking accommodations, etc. These concerns are discussed below.

### **Concern 1: Intent of the Commercial Zone**

The Rosegate Development should be approved with reasonable conditions that satisfy the City’s development intent for the SC-1 Zone, or denied. The SC-1 Zone is intended for commercial development, not high density residential development. *See General Plan, Ch. 1, Sec. 5.* Areas set aside for commercial interests should not be used for residential purposes. *General Plan, Economic Element, at page 30.* The Rosegate Development residential use directly contradicts the purpose of the SC-1 Zone which is to strengthen commercial and retail uses in the community, create a balanced tax base, provide employment opportunities and retail goods, and create office space. *See General Plan, Land Use Element, at page 25.* “[T]he SC-1 zone is established to provide an area in which the primary use of land is for commercial and service uses to serve the needs of the community and surrounding area and is located in the portion of the city most appropriately suited for the purpose . . . development within the zone shall be characterized by a harmonious grouping of commercial stores and shops and essential ancillary uses architecturally designed and functioning as an integrated unit.” City Code §10-4E-1. The City Code defines “ancillary” as less than 50% of the structure. City Code §10-6A-2, note 3. Section 10-6A-2 also states that residential uses within commercial development projects should be ancillary to the retail aspects of the development and limited to the second level of the structure(s). This limited residential use permits commercial and service uses for the needs of the community in the commercial/retail areas of the City. Rather than providing commercial services for the needs of the community and creating a healthy tax base that will significantly contribute to the City’s financial

stability, the Rosegate Development will provide only minimal tax revenue and increase the City's expenses and costs.

Commercial uses that are not focused on generating on-site sales should be encouraged to utilize properties that do not front 4800 West, Canyon Road/SR-146, or Cedar Hills Drive in the Mixed-Use Office/Retail and Mixed-Use Office sub-districts. *See Design Guidelines, Section 3.1.1.* The property constitutes 20% of the total commercial area of the City and fronts Cedar Hills Drive. Tax revenues from this property are very important for the City's long-term financial sustainability. While some of the potential businesses behind the Rosegate Development could have some on-site sales, the Rosegate Development itself will have few if any on-site sales, and therefore produce little to no sales tax revenue for the City. Likewise, development along 4700 West should be restricted to commercial only, in order to preserve high-traffic areas for commercial development.

An important principle for the council to consider is that just because a conditional use is allowed in a zone does not mean that it is allowed on every parcel in a zone. The council can restrict a use to particular areas of the zone to mitigate its impacts.

### **Concern 2: Size, Scale, Density of the Development**

The Rosegate Development should be either approved with conditions that make the size, scale, and density of the development more compatible with the City Code and Design Guidelines, or denied.

The size and scale of the proposed development is too large and completely incongruent with the other uses in the Mixed-Use Office/Retail sub-district and other assisted living facilities in the area. The Rosegate facility is a complete aberration in the Mixed-Use Office/Retail sub-district. No other structures in this sub-district are remotely close to the size and structure of applicant's proposed facility. This building would be the largest single structure in the City and dwarfs the other residential uses in the City – primarily single-family homes and town homes. The council is given the responsibility to review the building size: “The building size shall be reviewed by the City Council and potentially approved based on such items as building placement, aesthetics, noise control, lighting design, traffic control, etc. to give the feel consistent with the overall commercial development, as well as the community as a whole.” *See Design Guidelines, Sec. 4.3.3.*

Contrary to the City Code and guidance provided in the Design Guidelines, the Rosegate Development is one, massive, 3-story structure with a large uninterrupted parking area—all of which are entirely incompatible with the surrounding property uses. The Design Guidelines are very clear that 2-story buildings, and smaller individual buildings that break-up parking areas and create visual interest are encouraged. *See Design Guidelines, Sections 4.3.2 and 4.3.4.* Furthermore, “[i]t is the specific intent that architectural design and character of operation shall, to the maximum extent possible, be compatible with that of surrounding residential environment, and review, approval and attachment of conditions upon development within the zone will be predicated upon the accomplishment of this objective.” *City Code § 10-4E-1.* As quoted previously, “development within the zone shall be characterized by a harmonious grouping of commercial stores and shops and essential ancillary uses architecturally designed and functioning as an integrated unit.” The Design Guidelines further express that, “as a Mixed-Use

Neighborhood Commercial Area, attention to scale is of particular importance and will be considered throughout the design process.” *Design Guidelines, Sec. 4.1.1.* The scale of the Rosegate building is unacceptable in the Mixed-Use Office/Retail sub-district. As noted above, the size and scale of the Rosegate Development are incompatible with the surrounding commercial and residential areas.

The density of the Development is contrary to the City’s planned development for the Mixed-Use Office/Retail sub-district. The neighboring Charleston assisted living facility is approximately 65 units, in a 4.5 acre planned development known as Lexington Heights (14.4 units/acre). Rosegate plans 291 units on a total 11.4 acre development (25.5 units/acre). This is nearly twice the density of the Charleston, with an active senior population that will have much higher impact on the community than the older, less mobile patrons of the Charleston. Rosegate will have more units than any other residential building in the City by 230 units. This residential density is simply overwhelming for a city the size of Cedar Hills. The Rosegate Development alone will house more than 5% of the City’s current residential population. A massive, 291-unit, 3-story active senior apartment complex is an absurd density that defies the intent of our planning and zoning. If an assisted living facility was being proposed, then similar density to what was approved for the Charleston would limit the facility to 14.4 units/acre, or 165 units for the entire 11.4 acre site. However, assisted living is only a conditional use on 8 acres, which should further restrict density to 115 units on the 8 acres in the Mixed-Use Office/Retail sub-district. In addition, the residents of Rosegate will be much more active than those of the Charleston, generating traffic that is three times that of an assisted living facility (see reference below). This would argue for density closer to 100 units than to 150, to mitigate the increased impact of more active residents (e.g. more auto trips, leading to more traffic and noise pollution). The densest residential zone in the City, the PR 3.4 Zone, allows only 6 dwellings per structure.

In summary, the Rosegate Development is too dense for Cedar Hills’ “small town atmosphere.” “Culturally accepted restrictions may be placed on development within the community to protect citizens from noise, light, air, traffic, and other forms of pollution while fostering a viable mixed-use, walkable commercial zone. Considerations include density, diversity, and design.” See *Design Guidelines, § 1.1.* The size, scale and density of the Rosegate Development will single-handedly extinguish the city’s plan to develop a viable mixed-use commercial zone, and therefore, the application should either be approved with conditions that require a density that is compatible with the surrounding properties and the city’s intent to create a viable, mixed-use commercial center, or denied.

### **Concern 3: Intensity of the Development**

The Rosegate Development should be either approved with conditions that make the intensity of the Development in the Mixed Office/Retail Sub-district more compatible with the City Code and Design Guidelines, or denied.

The Design Guidelines state that “The Office/Retail Development shall be of lower intensity than the Neighborhood Retail development. This lessening of intensity shall be accomplished through the use itself and through a combination of building location, height, orientation, landscape buffering and specific site plan design.” *Design Guidelines, Sec. 4.3* Note the use of *shall*: this is a strict requirement. The

design guidelines are clear that the three sub-districts in the commercial zone shall be differentiated by their intensity of use.

The intensity of the Rosegate facility can accurately be determined by examining the estimated daily trip and peak PM trips. The traffic study provided by the applicant uses ITE 252 for senior housing, with an estimate of 1,002 daily trips. The two commercial buildings are listed as generating 28 (office, ITE 710) and 108 (shopping center, ITE 820) daily trips. As can be seen from this traffic study, the intensity of the senior living facility in the Mixed-Use Office/Retail sub-district is 10 to 35 times higher than the uses for the Neighborhood Retail district. This contradicts the design guidelines, which expect the intensity to be lower in the Mixed-Use Office/Retail sub-district. This high intensity will have significant negative impacts on the nearby single-family homes, producing excessive noise, light, air, and traffic pollution and resulting in lower property values.

In addition, there is strong evidence that ITE 252 is *not* the appropriate code for estimating the traffic impact of the proposed use. A study of senior housing traffic generation shows that “The weighted daily trip generation rate, was 5.64 trip ends a day for senior housing development. Senior housing generates two-thirds the amount of traffic compared to a typical single-family development. It’s closer to other multi-family categories, including apartments (6.47 trips/unit) and condominiums or townhouses (5.86 trips/units).” (*Senior Housing Trip Generation and Parking Demand Characteristics, Stephen B. Corcoran, ITE 66th Annual Meeting*). Based on this study, trip generation should use ITE 230 for townhouses. Moreover, due to the almost complete absence of public transportation in the area, and the long distance to commute to jobs or travel to stores and restaurants, the trip generation for the Rosegate facility will be much closer to an apartment complex or townhomes. Using a standard ITE calculator, this results in a daily trip generation of 1,691 daily trips for the Rosegate senior living facility (ITE 230). This conclusion is validated by the observation that residents of Rosegate will be active seniors, not bedridden in an assisted living facility.

To examine intensities that are planned or existing in the Neighborhood Retail sub-district, we use the same ITE methods. A Dollar Tree store (ITE 815) is being constructed in the Neighborhood Retail at this time. Based on standard ITE calculations, this will have an estimated 5 trips per 1000 square feet, with a maximum of 8,800 square feet, for 504 daily trips. Regarding other stores in the Neighborhood Retail area, the intensity of the Chase Bank (ITE 912) is 741 trips, the Harts gas station (ITE 852) is 4,228 trips, and McDonald’s (ITE 934) is 2,729.

Likewise, the intensity of the uses in the Mixed-Use Office sub-district can be calculated using ITE estimates. The Charleston assisted living facility (65 beds, ITE 254) has an intensity of 178. The Lexington Heights dental offices (16,000 square feet, ITE 715) have an intensity of 186.

Taking into account these existing intensities, it is clear that the estimated Rosegate intensity of 1,691 daily trips falls squarely in the range of high intensity uses in the Neighborhood Retail sub-district and is substantially higher than uses in the Mixed-Use Office sub-district. The proposed intensity is nearly 10 times that of the Charleston, the assisted living facility across the street. This level of intensity is clearly not compatible with the requirement that the Mixed-Use Office/Retail sub-district have less intense land uses than the Neighborhood Retail sub-district. The Design Guidelines indicate that reduced intensity is

accomplished through the use itself and through a combination of building location, height, orientation, landscape buffering and specific site plan design. Traffic intensity for the Mixed-Use Office/Retail district should be lower than the Neighborhood Retail district.

A reasonable condition to bring this proposed use into compliance with our Design Guidelines is to allow double the intensity of the Charleston (178 daily trips) or 356 daily trips. This would be provide lower density than the existing or planned Neighborhood Residential uses, but double the intensity than the existing Mixed-Use Office uses. Granting the applicant his more conservative estimate using ITE 252 results in a limit of 103 units. If, as the city believes, the traffic is better estimated using ITE 230, this would result in 598 daily trips, an intensity higher than the dollar store, close to the Chase Bank, and much higher than the office/retail the applicant plans to build in the second phase. Thus, I believe any conditions allowing more than 100 units would fail to substantially mitigate the effects of this high intensity land use.

#### **Concern 4: Intended Use**

The Rosegate Development more closely resembles a senior apartment complex than congregate care or assisted living. Conditions should be imposed to bring the use into conformity with City Code and the Design Guidelines, or the project should be denied.

The Development Guidelines state that “[t]o receive approval for a conditional use listed in the chart below, the burden of proof shall be on the applicant to demonstrate that the use is appropriate for the property or parcel under consideration”. The developer has asked for his development to be treated as assisted living. Assisted living is a conditional use and the City Council found, at the December 2, 2014 City Council Meeting, that congregate care was “substantially the same” as assisted living and thus a conditional use. *See* Design Guidelines 3.2. However, the City Council did not approve a senior apartment complex when they allowed congregate care as a conditional use. The proposed development has not “been shown to be substantially the same as” assisted living. In addition, the finding did not declare congregate care to be identical to assisted living, but that they were “substantially the same”. There are additional conditions that should be imposed on the development to mitigate its impacts, due to the residential nature of the project. In many ways this project is similar to apartment complexes, so conditions should be imposed that would normally be imposed on this use.

The council has been very clear in stating during the December 2, 2014 meeting, and numerous other meetings, that the development as presented is more similar to a condominium complex than to congregate care. The burden is on the developer to show that his development qualifies as congregate care. Furthermore, CM Rees made it clear, at the time of the vote, that city attorney Eric Johnson directed the council that nothing in the meeting could bind the city with regard to future votes because the council was presented with only a conceptual plan and not a full proposal. There was not enough detail in the conceptual proposal to determine whether Rosegate qualified as Congregate Care, so no finding of fact has yet been made to indicate that the developer's proposal qualifies for this use.

During the December 2, 2014 meeting, the council discussed definitions of congregate care but never formalized one for city code. Normally, this is part of the planning process, but the council is being asked to determine what functions in the proposed development would make it “substantially similar” to assisted living. At that meeting, CM Rees indicated the characteristics of assisted living include medical staff that is present 24x7, resident assessments conducted every 6 months, an individual service plan for each resident, arranging ancillary services, providing 3 meals a day 7 times a week, laundry services, cleaning services, etc. The council also discussed services offered by Treeo as being similar to the proposed Rosegate use. Treeo provides an on-site restaurant open to the public, with breakfast and dinner included in rent and lunch optional; an on-site physical therapist office, with the therapist teaching classes and offering rehabilitation, and additional fitness classes such as senior Yoga; a home health care agency on-site and staffed 5 days a week to provide assistance with medications, bathing, dressing, and other home health needs; regular blood pressure tests, hearing tests, and other routine care on-site; numerous social activities each day; and a complementary shuttle to local stores and shops, as well as pre-arranged doctor appointments.

At the December 2, 2014 City Council meeting, Cory Shupe said “We provide all the same services as assisted living, but you aren’t forced to use them. They are a la carte.” The council repeatedly told him this did not qualify the proposed development as congregate care, because the services were not provided on-site:

“From what I can tell it is much more like a high density apartment than assisted living, so I would say they aren’t alike.” – CM Crawley

“My opinion, based up the information we’ve received tonight, is that it feels more residential.” – CM Rees

“If I’m looking at purely finding of fact, then it’s clear to me that this is closer to residential use.” – CM Zappala

It is reasonable to impose conditions to ensure this use conforms to the zone and is similar to assisted living. The Institute of Transportation Engineers, in a document titled “Senior Housing Trip Generation And Parking Demand Characteristics” clearly describes the difference between senior apartments and congregate care. The document states that:

Congregate care facilities contain a full spectrum of housing types in one development with town homes or cottages, independent living units, assisted-care units, and nursing care. Congregate Care Facilities (CCF) allow the elderly to age in one place with nursing care available if they need it. This is particularly important for elderly couples wishing to stay together with one spouse needing special care. CCFs are in essence self-contained communities.

(<http://library.ite.org/pub/e2318e3d-2354-d714-5119-2cd67225c3e0>)

The document then lists a set of services expected to be offered on-site, including meals, 24-hour nursing care, house cleaning, in room food service, chaplain, and other services .

Other nearby cities define congregate care so that it is clearly distinguished from apartment complexes. Pleasant Grove City defines Congregate Care as “Living units for elderly persons arranged as private apartments or rooms in one building. May or may not include kitchenettes in private areas. Congregate units are characterized by having common dining and social areas, and having meals prepared by staff for the residents.” American Fork defines Congregate Care as “A residential dwelling, occupied or intended to be occupied by elderly persons who may require assistance with one or more activities of daily living, in a multi-unit apartment or condominium setting, having common dining and social areas and having meals prepared by staff for the residents. Congregate living units may also include kitchenettes in the private areas.”

The applicant has provided no evidence of services to be provided or how the Rosegate Development will be like an assisted living facility. The City has been considering the Rosegate Development application for the past 2 years, and we have never been provided with a formal list of services that will firmly qualify the development as an assisted living center. The council has asked repeatedly for a list of services offered on-site, and the developer has repeatedly stated this would be forthcoming and then never delivered this information. All of the evidence points to the fact that the development will function like applicant’s other facilities in Draper and Sandy which are attached residential living units for independent, active seniors.

When presenting the proposed use at the April 16, 2015 Planning Commission Meeting, the developer again indicated that all services would be provided a la carte or “cafeteria style”. There is nothing in statements from the developer that distinguishes Rosegate from a senior apartment complex. There is no commitment to on-site meals, 24-hour nursing, and other on-site services that would qualify the development as congregate care. Any resident of an apartment complex can avail themselves of restaurants, fitness clubs, doctors, and other off-site or third party services. A congregate care facility offers basic services on-site for the convenience of its residents, so they can age in place.

Because of this deficiency, the use as proposed does not qualify for a permitted or conditional use in the commercial zone, and the council could deny this application. Alternatively, the council should impose conditions that ensure the use conforms to our zone. To ensure the use is similar to assisted living, the council should require conditions such that services consistent with aging in place are provided on-site. On-site services should include a restaurant that provides three meals a day seven days a week; home health care services from qualified professionals, including help with medications, bathing, dressing, and other hospice needs; physical therapy; other routine health care services; fitness classes; regular social activities; and a shuttle to nearby destinations that are too far for walking (e.g. Highland and American Fork retail locations, the temple). In addition, the council should require retail on the first floor, as part of its mixed-use housing requirement. Retail is necessary to provide the services that residents need to “age in place”. In addition, while congregate care is substantially similar to assisted living, it is not identical. In many respects, it is similar to an apartment complex. The Design Guidelines require retail on the first floor for any residential use, in keeping with its goal that this zone is a “mixed-use” zone.

### **Concern 5: Parking**

The Rosegate Development should be approved with conditions that require additional parking or a reduction in the number of units. As proposed, the development lacks adequate parking for an active, independent senior community. Alternatively, the application should be denied.

In many aspects, the proposed use is similar to a condominium complex, with active seniors rather than those confined to beds in an assisted living facility. To assess parking needs, the city commissioned a study from Horrocks Engineers, which concludes there is a need for 1.3 or 1.4 stalls per unit, depending on the classification of the property. The Rosegate senior living facility proposes 291 residential units and 294 parking stalls, so with a parking requirement of 1.4 spaces per unit the facility is 113 parking spaces short of the required number. This is substantiated by the fact that in an active, independent senior community, with almost no public transportation available, there will be a greater demand for parking and each of the residents will likely have their own vehicle. Because there is no other room to expand the parking in this facility, the number of units in the facility need to be reduced in order to accommodate the parking needs for an active senior living community.

In addition, a substantial portion of the Development proposes outdoor, overnight storage of vehicles for the residents. The City Council, at its discretion, has the authority to prohibit the outdoor, overnight storage of vehicles in the Development. *See Design Guidelines § 3.2.* The council has consistently imposed this condition on other uses in the commercial zone. No other outdoor overnight storage of vehicles is currently allowed in the commercial zone. Particularly where parking is adjacent to single family homes, covered parking is needed to reduce noise and light from vehicles parking at night. Because the Rosegate development will detract from the commercial nature of the area and policy objectives of the Design Guidelines, the council should impose a condition that all or some parking be covered. The City Council's discretion on this matter is critical in order to preserve the integrity of the city's code and policies.

### **Concern 6: Landscaping and Open Space**

The Rosegate Development should be either approved with conditions that alter the proposed landscaping and open use so that it complies with the Design Guidelines, or denied. "Landscaped areas shall not be residual in nature but shall create a cohesive network from site to site and throughout the project. Specifically, landscaped areas shall help create a park-like atmosphere with linked pedestrian corridors designed to promote pedestrian activity." *Design Guidelines 4.1.2.* The landscaped areas of the Rosegate Development are primarily located within deep courtyards of the project, away from any pedestrian access, and are not linked in a way to create a park-like environment or promote pedestrian activity outside of the development. The size and scale of the proposed development make the landscaped areas seem residual and unnatural. In order to establish open space and landscape areas that encourage pedestrian travel and a cohesive park-like atmosphere, several smaller residential buildings should be considered by applicant that create natural corridors and a more open feel for pedestrian travel. Further, as provided in Section 4.1.2 of the Design Guidelines, the landscaping in the Rosegate Development should also provide a buffer and screen from Cedar Hills Drive and the parking areas of the development.

As proposed, the parking areas will aesthetically dominate the exterior of the development, and there is very little buffer or screen between the parking areas and Cedar Hills Drive.

**Concern 7: Phased Development**

The Rosegate development should be either approved with conditions that implement a phased development consistent with the City's development intent and overall plan for the City's commercial center, or denied. "A planned commercial development project may be constructed in phases upon approval by the city council and upon a finding that the proposed phase is consistent with the overall plan for the project and constitutes a significant portion of the total project and a logical element thereof." City Code § 10-6A-3. (emphasis added). The phased construction in the Rosegate development is inappropriate for several reasons. The developer has stated that no commercial buildings will be constructed until tenants are found, and that this may not occur for many years. If only the first phase is developed, as promised by the developer, then the entire development will be residential, with no commercial component. If approved, it would mean that the City's highest density residential development would be in the heart of the City's commercial center, with no additional services for the active seniors that will live there. The council should impose conditions that require each phase to include both commercial and residential development, consistent with the primary intent of the sub-district being mixed-use development.

**Concern 8: Public Safety**

The Rosegate Development should be approved with conditions that mitigate the impacts on the City's public safety services, including police, fire, and medical services, or denied. The population of Cedar Hills is about 10,000 people. The Rosegate Development may increase the population up to 5% (2 people per unit of a 291-unit facility). The population increase will likely consist of senior citizens who have a significant need for first responders. Such an increase will burden the City's EMS services. Currently, the fire marshal reports that they responded to 2,771 calls from September 2013-2015, with 135 or 5% of the calls being for the Charleston, a neighboring assisted living facility that is substantially smaller to the proposed facility, but only 60 units. As proposed, Rosegate's density will be nearly 5 times the density in Charleston. Accordingly, if the trend stays true, up to 25% of the first responder calls may be attributed to Rosegate residents. This will be a significant financial burden to the City and will cause significant noise pollution for nearby residents. The size, scale, density and intensity of this development will place an unreasonable burden on the City's public safety services.

**Concern 9: Senior Living**

The Rosegate development should be either approved with reasonable conditions that require specific senior citizen rental restrictions, or denied. As proposed, 20% of the units can be occupied by any person over 18 years of age — this is an apartment complex. The applicant has indicated to the City that their leasing policies will (1) follow the HOPA guidelines for housing for 55 and older, and (2) prohibit anyone younger than 18 from living in the facility. HOPA requires that at least 80% of the units must be occupied by at least one resident over the age of 55. However, HOPA also allows a community to impose restrictions that are more restrictive than this. The developer has indicated a desire to ensure that no units

are rented to those under age 55. This would help ensure that the facility meets the proposed use, that basic services necessary for seniors would not be eroded due to a lack of a senior population to sustain them, and would mitigate the impact of a large residential facility in the zone. Accordingly, the city should impose a condition that the 100% of the units must be occupied by at least one resident over the age of 55, with exceptions for any staff that lives on site.

### **Concern 10: Lighting and Privacy**

The Rosegate development should be either approved with reasonable conditions that limit light pollution for nearby single family homes, or denied. As proposed, the lighting plan includes numerous 25' and 20' pole-mounted lights along the south end. These lights will direct significant light onto single-family homes, particularly second story windows, making it difficult for residents to sleep. Accordingly, the city should impose a condition that lights in the south parking areas be mounted lower to the ground on bollards instead of on poles. The city may impose a condition that all lights be similar in type, in order to harmonize the look of the development.

An additional concern is that privacy of single-family homes may be compromised by a three story apartment complex adjacent to residences. To mitigate this impact, the council should impose a condition that the landscaping border on the south side be 25' instead of 15' and that trees along the southern border be evergreen. While the Design Guidelines mention 15', city code stipulates that the city “may increase standards where it is determined that such increased standards are necessary in order to ensure that the development will mesh harmoniously with adjoining or nearby uses.” (City Code 10-6-11)

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In light of these concerns, I believe the City Council has sufficient evidence that the proposed development does not meet the assisted living conditional use being requested. Accordingly, this application could be denied, on the grounds that it does not meet any of the conditional uses in our code.

However, if the council chooses to approve the project, it should impose reasonable conditions that satisfy the restrictions in our General Plan, City Code, and Development Guidelines, along with reasonable conditions that substantially mitigate the negative impacts of the proposed uses, particularly the size, scale, density, and intensity of the development. These conditions should include:

- a) In accordance with residential uses in Planned Commercial Development Projects, the Rosegate Development should be “ancillary” to the commercial uses on the project. Accordingly, the residential aspect of the development should not constitute not more than 50% of the total project uses and such residential use should otherwise be congruent with the intent of the SC-1 Zone, General Plan and Design Guidelines as set forth in Concern 1.
- b) The residential uses in the Rosegate Development should be composed of two or three separate buildings. This is in keeping with the requirement in the Development Guidelines that “the development must be characterized by a harmonious grouping of commercial stores and shops and essential ancillary uses architecturally designed and functioning as an integrated unit,” as discussed in Concern 1.

- c) The Rosegate Development should have commercial uses that generate significant on-site sales for buildings that are adjacent to Cedar Hills Drive and 4700 W. This is in keeping with the Development Guidelines and concerns discussed in Concern 1.
- d) The Rosegate Development should be limited to no more than 100 residential units. Currently, the densest residential zone in the City (the PR 3.4 Zone) allows for only 6 units per structure. The Rosegate building is an anomaly in the City with a proposed 291 units in the structure. Any more than 100 units on the subject property would be irresponsible planning practices. This condition will ensure that the property has an intensity that is less than the uses in the Neighborhood Retail sub-district, a requirement listed in the Design Guidelines. In addition, this condition must take into account the reality that there is little public transportation in our area, so residents will need to drive regularly, causing additional intensity far beyond an assisted living building and even more than a typical senior housing development that may be more conveniently located to nearby shops and services.. The Rosegate Development should be compatible with the surrounding properties and the City's intent to create a viable, mixed use commercial center for the reasons described in Concern 2 and Concern 3.
- e) The Rosegate Development must include on-site services for the convenience of its residents, so they can age in place. On-site services should include a restaurant that provides three meals a day seven days a week; home health care services from qualified professionals, including help with medications, bathing, dressing, and other hospice needs; physical therapy; other routine health care services; fitness classes; regular social activities; and a shuttle to nearby destinations that are too far for walking (e.g. Highland and American Fork retail locations, the temple). This will ensure the development qualifies for a conditional use that is "substantially similar to" assisted living, as discussed in Concern 4.
- f) Alternatively to (e), the attached residential living aspects of the Rosegate Development should be ancillary to the other uses in the project. The residential units should be limited to the floors above ground level and must include retail on the first floor. If the building is not approved as congregate care, then this condition must be imposed as part of the City's mixed-use housing requirement. In many respects, this development is similar to an apartment complex, and should meet the City's standards for mixed-use housing, in keeping with the Mixed-Use Office/Retail sub-district intent as a "mixed-use" zone. This would address additional concerns listed in Concern 4.
- g) The Rosegate Development must include 1.4 parking stalls per residential unit. The applicant's description of the proposed use is more closely akin to a senior apartment complex than an assisted living center. Accordingly, for the reasons discussed in Concern 4 and Concern 5 of my letter, the number of residential units must be reduced, in order accommodate active senior living.
- h) Outdoor, overnight parking of vehicles shall be prohibited. This restriction is imposed in accordance with the City Council's powers to take reasonable steps to preserve the integrity of the General Plan and the intent of the Mixed-Use sub-district in the commercial zone, as discussed in Concern 5.
- i) In accordance with the Design Guidelines, the landscaping and open areas shall create a park-like atmosphere with linked pedestrian corridors designed to promote pedestrian activity. The size and scale of the Rosegate building is larger than any other building in the City. For the reasons discussed in Concern 6 of my letter, the landscaping needs to promote integration with the surrounding property uses and not limit the open-space and pedestrian traffic areas to the interior courtyards of the facility. The landscaping should provide open walkable space between separated

buildings. Currently, the landscaping is not accessible to pedestrian access from surrounding neighborhoods and is not linked in a way to create the pedestrian corridors and park-like environment required in the Design Guidelines.

- j) The Rosegate Development shall be constructed in phases that include both commercial and residential development, consistent with the primary intent of the sub-district being mixed-use development. The proposed phased construction is inappropriate because the primary purpose of the development is to place residential use in the heart of the City's commercial center, the commercial aspect of the development is ancillary to the overall development, the timing of the commercial portion of the development is uncertain, and for each of the other reasons discussed in Concern 7. Commercial uses must have adequate parking, separate from residential uses.
- k) The Rosegate Development should be reduced in scale, size and intensity in order to mitigate the impacts on the City's public safety services. No more than 100 units should be permitted in the development for the reasons discussed in Concern 8, and in keeping with concerns listed in Concern 3 and Concern 4.
- l) Each residential unit shall be occupied by at least one resident that is 55 years of age or older. For the reasons discussed in Concern 9, reasonable rental restrictions are required in order to prevent an erosion of the living accommodations and services available to the senior community.
- m) Lights in parking areas shall be mounted low to the ground in bollards, rather than on light poles. For the reasons discussed in Concern 10, reasonable restrictions are required in order to prevent light pollution for residents in neighboring single-family homes.
- n) The landscaping border along the southern edge of the development shall be 25' instead of 15' and trees along the southern border shall be evergreen. For the reasons discussed in Concern 10, reasonable restrictions are required to ensure privacy for residents in neighboring single-family homes.
- o) All review and approval of these conditions must be made by both the Planning Commission and this Council.
- p) These conditions must be included in CC&Rs recorded with the property.