

**Agenda Item:** Appeal

Title: Appeal of Planning Commission's denial of CUP-21-03-1010 Ivinson Avenue, a Conditional Use Permit for construction and operation of a Parking Garage (non-exempt College or University use/commercial parking lot) and UW Police Station (non-exempt College or University use).

Recommended Council MOTION:

Move to **reverse** the Planning Commission's decision and **approve** CUP-21-03-1010 Ivinson Avenue, a Conditional Use Permit for construction and operation of a Parking Garage (non-exempt College or University use/commercial parking lot) and UW Police Station (non-exempt College or University use) based on findings of fact and conclusion of law and all staff recommended conditions of approval as contained in the original Planning Commission Staff Report dated April 26, 2021.

Administrative or Policy Goal:

Depending upon the zoning district a site is located within uses are either permitted, not permitted or conditionally permitted. For uses that require Conditional Use Permit approval the Planning Commission must consider and approve the use prior to establishment of the use at the desired location.

All regulations found within the Laramie Municipal Code (including the Unified Development Code) were approved and adopted through Ordinance by the City Council. It is the professional obligation and responsibility of staff to follow and enforce adopted codes.

Background:

The University of Wyoming applied for a Conditional Use Permit for construction and operation of a Parking Garage (non-exempt College or University use/commercial parking lot) and UW Police Station (non-exempt College or University use) at 1010 Ivinson Avenue, which is currently an existing parking lot. Per LMC 15.04.030.F.2 the Laramie Planning Commission is the decision-making authority for Conditional Use Permits.

The City of Laramie Planning Commission considered the Conditional Use Permit at their April 26, 2021. The April 26, 2021 Planning Commission Staff report is attached (The staff report has not been altered after the Planning Commission meeting, except for the swapping out of the updated traffic study submitted by the applicant with the appeal). City of Laramie Staff recommended **approval** of the Conditional Use Permit, based upon the application meeting the required findings of fact required for consideration per LMC 15.06.060.E.3.e.(ii). Those findings of fact are:

(1) *The conditional use proposal provides adequate:*

(a) *Ingress and egress to property and proposed structures; (b) Off-street parking and loading areas; (c) Control over the off-site impacts of economic, noise, glare, or odor effects of the conditional use; (d) Refuse and service areas; (e) Utilities, with reference to locations, availability, and compatibility; (f) Screening and buffering, with reference to type, dimensions, and character; and (g) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district (Ord. 734 § 1 (part), 1983: Ord. 661 § 1 (part), 1981: Ord. 194 § 6.1(8)(c), 1964)*

(2) *The proposed use is appropriate to the specific location relative to intensity and bulk;*

(3) *The proposed use is appropriate to the specific location relative to public health, safety and convenience; and*

(4) The proposed site is adequate in size and shape to accommodate the intended use and that the use will comply with all requirements for the zone district, including but not limited to the following:

(a) Setbacks, (b) Walls, (c) Landscaping, (d) Bufferyards, and (e) Any standards specific to the use as set forth in chapter 15.10, Use Regulations.

Following presentation of the staff report, public testimony and discussion, the Planning Commission **denied** the Conditional Use Permit (5 yes, 1 no, 1 abstained - conflict of interest). As the decision was contrary to Staff's recommended motion of approval and the staff report, the Planning Commission is required to make findings related to at least one of the findings of fact in order to deny an application. The Planning Commission's motion stated the following findings of fact for denial:

1. Nuisance concerns- increased noise, dust, glare, pollution, and traffic.
2. Context to the neighborhood- the parking garage is high density and inconsistent with the low-density parking of the Iverson corridor plan.
3. General welfare- the parking garage is a public sector project which is financially imprudent, which will cause economic injury to the student members of the community, the University, and the State.

If you feel it would be helpful to hear the discussion related to this item before the Planning Commission you can listen to the meeting at the following link:

<https://cityoflaramie.org/AgendaCenter/Search/?term=&CIDs=4,&startDate=&endDate=&dateRange=&dateSelector=>

As this item was denied, pursuant to LMC 15.06.030.F.3, this decision can be appealed to the City Council if the appeal is submitted within 7 days of the Planning Commission's decision. On May 3, 2021 the applicant, a party with standing to appeal the decision, submitted an Appeal Application as required by code. The applicant (UW), through a letter attached to this agenda item, has provided testimony related to the 3 findings of fact which Planning Commission based their decision upon. Their testimony is:

1. Item No. 1 from the Planning Commission states the following condition for denial of the permit: "Nuisance concerns- increased noise, dust, glare, pollution, and traffic." This contradicts the Staff Report conclusion which states that the application meets all required findings for approval of the Conditional Use Permit. This condition for denial was not supported by any information or testimony.

2. Item No. 2 from the Planning Commission states the following condition for denial of the permit: "Context to the neighborhood- the parking garage is high density and inconsistent with the low-density parking of the Iverson corridor plan." This contradicts the Laramie Comprehensive Plan that classifies the Future Land Use Designation of the subject property as Urban University intended to recognize the use and character types associated with university development.

3. Item No. 3 from the Planning Commission states the following condition for denial of the permit: "General welfare- the parking garage is a public sector project which is financially imprudent, which will cause economic injury to the student members of the community, the University, and the State." This is inconsistent with the criteria to be considered in the Planning Commission's review of a Conditional Use Permit application as identified in Laramie Municipal Code 15.06.030.E.7 and 15.06.060.E and is without merit.

As the City Council is the body which considers all Conditional Use Appeals, the Council must do one of the following:

1. Uphold the Planning Commission's decision based upon the 3 findings of fact given during the April 26, 2021 Planning Commission Meeting.
2. Uphold the Planning Commission's decision based upon at least one of the findings of fact given during the April 26, 2021 Planning Commission Meeting.
3. Reverse the Planning Commission's decision based upon the finding of fact and conditions of approval given within the April 26, 2021 Planning Commission staff report.

4. Reverse the Planning Commission's decision based upon the finding of fact and amended conditions of approval given within the April 26, 2021 Planning Commission staff report. **(Staff's recommendation)**
5. Table the item until more information or testimony is given.

If the Council chooses options 1 or 2 the application for Conditional Use would be denied. If options 3 or 4 are selected, the Conditional Use would be approved. If option 5 is considered the appeal would be considered at a different time.

Staff believes that the information presented within the Staff Report provides the necessary support for a recommendation of approval of the Conditional Use Permit.

Recommended Amendments:

If the City Council chooses to reverse the Planning Commission's decision related to the Conditional Use Permit, the applicant, in conjunction with the appeals request, has asked that the City Council consider three amendments to the recommended conditions of approval found in the staff report.

The original conditions, staff comments and recommended amendments are:

Amendment Request 1:

The original condition recommended by the City stated the following:

Condition 7 – "7. At the time of Site Plan application, the applicant shall provide, as required by the Site Plan application, stormwater, water and sanitary sewer reports that address capacity for this development."

The applicant requests that, "The University proposes to provide data related to the additional loads to be placed on City utilities thereby allowing the City to analyze impacts to the capacity of the City's utility systems."

The City does not support modifications to this condition. The applicant is required to show, the same as all other development applications, that the development they are proposing can be adequately supported by the utility system in the area, and if not, changes may be required by the applicant before the use can be allowed. Public Works and the Engineering Division, noted potential capacity issues in the area, but until data is supplied by the applicant, we cannot make that determination.

Amendment Request 2:

The original condition recommended by the city stated the following:

Condition 13 – "13. A Rectangular Rapid Flash Beacon (RRFB) shall be installed based upon best Engineering practices and as approved by the City Engineer through the Site Plan process, at the 11th Street and Iverson Avenue pedestrian crossing."

The applicant requests that, "further discussion regarding the requirement of Condition No. 13, which requests that the University install a rapid flash beacon system."

Following further discussion with the applicant more flexibility related to the condition was requested so the University could further evaluate the need for a RRFB at either of the intersections, 10th or 11th, or possibility both. Staff does not support elimination of the RRFB requirement; however, we do support modifying the condition to allow for flexibility as requested. If Council agrees, Staff would recommend amending Condition 13 as follows, "13. A Rectangular Rapid Flash Beacon (RRFB) shall be installed based upon best Engineering practices and as approved by the City Engineer through the Site Plan process, at either

the 10th Street/Ivinson Avenue or 11th Street/Ivinson Avenue pedestrian crossing or both crossings if desired.”

Amendment Request 3:

The original condition recommended by the city stated the following:

Condition 14 – “14. All crosswalks found on Ivinson Avenue shall be fully ADA compliant, on both the north and south side of the crosswalk, including spot elevations for evaluations in association with the Site Plan application.”

The applicant requests that, “The University proposes to provide ADA compliant improvements to the curb lines on the proposed site and on the north side of Ivinson Avenue at 10th and 11th Streets. No work to the roadway or improvements to other crosswalks along Ivinson Avenue are being proposed as part of the University project.”

Following further discussion with the applicant the word “All” implies that all crosswalks along Ivinson Avenue shall be fully ADA compliant. The intent of the condition was to require ADA compliance on 10th and 11th Street crosswalks, not “All” of Ivinson Avenue. Additionally, the applicant requested clarity regarding full ADA compliance, specifically the roadway. The intent of the condition is to ensure that ADA ramps and painting are included for each crosswalk. Concerns were raised by the applicant related to the actual roadway and ADA compliance in that space. Staff does not believe that ADA compliance can be achieved within the roadway until full reconstruction of Ivinson is completed, thus this condition is only to be focused on the ramps and associated ramp areas, as well as the painting of the crosswalk. Staff supports modification to the condition to address these concerns. If Council agrees, Staff would recommend amending Condition 14 as follows, “14. Crosswalks found on Ivinson Avenue, at 10th and 11th Street, shall be ADA compliant, on both the north and south side of the crosswalk with ADA ramps, including spot elevations for evaluation, as well as proper crosswalk painting, in association with the Site Plan application.”

Legal/Statutory Authority:

Laramie Municipal Code Title 15, Unified Development Code, Wyoming State Statutes Title 15 Cities and Towns, Article 5 Planning, Wyoming State Statutes Title 15 Cities and Towns, Article 6 Zoning, Laramie Comprehensive Plan 2007, Major Street Plan, UW Campus Master Plan 2020, UW Parking and Transit Study 2019, Long Range Planning Process for Ivinson Street Corridor

BUDGET/FISCAL INFORMATION:

N/A

Responsible Staff:

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Future dates are subject to change

Public Hearing Held	April 26, 2021 – PC
Public Hearing Advertised	April 26, 2021- PC
Introduction/1 st Reading	May 18, 2021

Todd Feezer, Assistant City Manager, tfeezer@cityoflaramie.org, 721-5304

Attachments:

- Appeals Application and Cover Letter (Provided by the Applicant)
- CUP Denial Letter dated 4.27.2021
- April 26, 2021 Planning Commission Staff Report